

The First Annual Report
of the
Chief Child Protection Attorney



Presented to the
Governor and General Assembly
November 2007

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COCP's 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 heard before the Superior Courts for Juvenile Matters and Family Matters, receive high quality, competent and zealous representation from attorneys and guardians ad litem who 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 these children and parents face.

As a state agency, COCP must achieve this mission in the most cost-efficient manner that does not compromise attorney services and is accountable to the state of Connecticut. The COCP is committed to ensuring that these children, Connecticut's most vulnerable and voiceless population in the courts, and their parents, receive the most competent legal representation possible.

A Note from the Child Protection Commission

Formed in 2005, the Child Protection Commission was charged with hiring the state's first Chief Child Protection Attorney. Fortuitously, Attorney Carolyn Signorelli was willing to take on the challenge of building a new agency. With a small budget and the commission's support, Attorney Signorelli developed a staffing plan, hired a very capable staff of professionals, advocated for and won increased compensation for child protection attorneys and steered through a newly approved specialization certification in child protection law. As you will see, these are but a few of the Office's accomplishments in its first year.

The Commission on Child Protection wishes to commend Chief Child Protection Attorney Carolyn Signorelli and her staff on their Herculean efforts on behalf of Connecticut's children and the attorneys and guardians ad litem who advocate for them. We are very fortunate to have Attorney Signorelli, Susan Forbes, Valerie Clark, Jaime DeLarosa, Nicholas Fanis, Amy Baez and Deborah LeClerc. They have our thanks for a job magnificently done.

The Commission on Child Protection supports the Office of the Chief Child Protection Attorney and wholeheartedly supports the adoption and implementation of the recommendations contained in this report.

On behalf of the Child Protection Commission,

Anthony Lazarro, J.D., Chair



Commission On Child Protection
State of Connecticut

Office of the Chief Child Protection Attorney

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CAROLYN SIGNORELLI
CHIEF CHILD PROTECTION ATTORNEY

Dear Friends:

It is my honor to release the first Annual Report of the Office of the Chief Child Protection Attorney for Fiscal Year 2006-2007.

As a new agency, we have much to report. Our first year was filled with challenges and successes. We report on them herein. We also identify areas to direct resources in the coming year. We are making progress toward the goals established by the General Assembly. Yet, we have much work to do in order to claim success.

In our efforts to implement our legislative mandates, we have had a great deal of support. Governor Rell, the General Assembly, the Judicial Department and our many supporters have made the work of the Office much easier to accomplish. We are grateful for your support and depend on your continued efforts on behalf of the Office in the coming year.

Sincerely,

Carolyn Signorelli
Chief Child Protection Attorney

CHIEF CHILD PROTECTION ATTORNEY'S FIRST ANNUAL REPORT

This report provides information about the Commission on Child Protection "COCP" and the Office of the Chief Child Protection Attorney's "CCPA" activities for the past fiscal year. The report includes measures undertaken to meet the office's statutorily mandated responsibility to provide and oversee legal representation for children and parents in child protection, custody and support matters in Connecticut. The report also provides an overview of major accomplishments achieved this year, fiscal management of appropriations and COCP's goals for the upcoming year.

EXECUTIVE SUMMARY OF MAJOR ACCOMPLISHMENTS IN FY 2006/2007

Compensation:

- Increased compensation to \$500.00 flat fee.
- Budget increase of \$3 million dollars.
- Implementation of hourly billing for all new contract attorneys.

Standards of Practice:

- Promulgated and published standards of practice.
- Provided orientation and training on standards to all new contract attorneys.

Caseload Standards:

- Reduced all attorneys to one court assignment.
- Reduced maximum caseloads for majority of attorneys to 100 or less.
- Significantly reduced the number of attorneys with over 150 cases.

Training Standards:

- Established an extensive training program and access to resources for Juvenile Contract attorneys, including: three days of pre-service training for new attorneys, in-service training for all attorneys, scholarships to national trainings, CBA Juvenile Law Track and three days of NITA trial skills training for 56 Juvenile Contract attorneys. This was accomplished through collaboration with the Center for Children's Advocacy, Lawyers for Children America, the Department of Children and Families, the Connecticut Bar Association, the National Association of Counsel for Children, the National Institute of Trial Advocacy, the

Judicial Branch, and the Governor's Task Force on Justice for Abused Children.

- Issued contracts that require mandatory pre-service training and mentoring for new contract attorneys, with three mandatory in-service trainings per year for all contract attorneys.
- Coordinated significant training events with Judge training to promote attendance.

Attorney Assessment/Application Review:

- Created, distributed, collected and reviewed assessment surveys on all attorneys.
- Reviewed and processed over 230 Juvenile Contract Applications.
- Interviewed 10 attorneys and investigated approximately 90 complaints.
- Rescinded or did not approve contracts of six attorneys who failed to meet contract standards.

Mentoring Program:

- All new contract attorneys have an assigned paid mentor responsible for ensuring shadowing, supervision on three cases, ongoing consultation and reporting to CCPA regarding the mentee's progress and needs.

Created Website:

- The website contains resource links; practice tips; updates on law, procedure and DCF policy; billing procedures; lists of service providers, transcripts, expert approval forms and procedures; calendar of events and training updates.

Certification Program:

- CCPA secured a rule change to the Rules of Professional Conduct recognizing Child Welfare Law as a field of legal specialization in Connecticut. CCPA also secured an agreement from NACC to bring certification to Connecticut as the ABA's authorized child welfare specialist certifying body.

INTRODUCTION

Why Effective Legal Representation Is Imperative for DCF Involved Children:

“On any given day in the U.S. half a million children and youth are in foster care, removed from homes because of allegations of abuse or neglect.”¹ On average, children in the state’s child protection system have three different foster care placements; some have many more. In Connecticut, as of June 1, 2006, DCF reported approximately 6,337 children placed in state care. Of these children, 3,267 were in foster care; 1,191 were placed with relatives; and over 2,000 children were residing in group homes, therapeutic facilities, juvenile justice facilities, safe homes and shelters.²

Extended separation from family, uncertainty for their futures, frequent and unexpected moves in childhood-- especially to unfamiliar homes and new schools-- can devastate a child’s healthy development and prevent him or her from becoming well-adjusted, productive adults.

Children often lack a strong, effective voice in court, limiting the information available to judges and denying children the opportunity to participate in decisions that affect their lives. Not surprisingly, research has found children and parents need a stronger, more effective voice in child protection courts through better trained attorneys.³ The families of the state of Connecticut are fortunate to have a Governor and General Assembly that has mandated that all children subject to neglect and abuse proceedings receive an independent attorney at state expense whose function is to represent the interests of their child client. Through the creation of the COCP, the governor and legislature have set in motion a program that will enhance the skills of these attorneys and ensure that the voices of children are heard and the rights of indigent parents are protected during the proceedings that so profoundly influence the well-being of these children and the future of so many families.

¹ Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care, p. 9, <http://pewfostercare.org/docs/index.php?DocID=41>

² Annual Report of the Office of the Child Advocate for FY 2005 – 2006, p. 8.

³ See fn 1, p. 9.

THE COCP, WHO IT SERVES AND HOW IT ASSISTS LEGISLATORS IN REPRESENTING THEIR CONSTITUENCIES

The Work of the COCP

The General Assembly created the COCP in the 2005 legislative session through P.A. 05-3 Sections 44 through 46. Their intent was to create an independent agency to improve and monitor attorney services for children and indigent parents in child protection matters.* C.G.S. § 46b-123c provides for the establishment of an 11 member Commission. Its function is to carry out the purposes of the legislation and to appoint a Chief Child Protection Attorney.

Commission Members:

Member	Appointed By	Town
Anthony Lazzaro, Chair	Governor	Glastonbury
Monique Ferraro	Governor	Watertown
Vacant	Governor	
Judge Michael Mack	Chief Justice	Stonington
Judge John Turner	Chief Justice	Hamden
Shelley Geballe	President Pro Temp	New Haven
John Kelley	Senate Majority Leader	New Haven
Gregory Stokes, Sr.	Senate Minority Leader	Enfield
Anthony Candido	House Speaker	Milford
Paul Chill	House Majority Leader	Andover
Ann P. Dandrow	House Minority Leader	Southington

Initially the Commission reported within the Division of Public Defender Services for administrative purposes. During its first year, the Commission met monthly and currently meets bi-monthly. It oversees and advises the Chief Child Protection Attorney (CCPA).

* Please note that the primary focus of this legislation was on the provision of legal representation in Neglect and Termination of Parental Rights cases brought by the Department of Children and Families “DCF” in the civil session of the Superior Court for Juvenile Matters. Eventually included in the transition of this program from the Judicial Branch, was the administration of the payment of attorneys appointed as GAL’s for delinquents, AMC’s and GAL’s for children of indigent divorce and custody litigants and also the attorneys contracted and appointed to represent indigent contemnors and putative fathers in support proceedings.

The CCPA is responsible for establishing the system of state paid legal representation in Juvenile and in Family Matters and ensuring the quality of that representation. The CCPA manages and oversees the following attorney services in the Superior Court Juvenile and Family Matters Divisions and the Magistrate Courts and Support Enforcement proceedings:

- Attorney/Guardians ad Litem (GAL) representation for all children in Juvenile Matters child protection proceedings.
- Attorneys and/or GALs for children subject to Family with Service Needs petitions.
- GALs for children subject to juvenile delinquency proceedings.
- Attorneys for children subject to delinquency proceedings who do not qualify for Public Defender services, but are not being provided an attorney by their parent or legal guardian.
- Attorneys for all indigent parents in juvenile matters child protection proceedings.
- Attorneys for Minor Children (AMCs) and GALs in Family Matters divorce and custody proceedings where parents are indigent.
- GALs for children in Magistrate Support Court proceedings.
- Attorneys for indigent contemnors in Family Matters and Magistrate Support Court proceedings.
- Attorneys for indigent putative fathers in Magistrate Support Court and Support Enforcement proceedings.

This past year, the COCP provided representation to 14,416 children and indigent parents in Juvenile Matters cases and in 2,596 Family Matters cases. The COCP provides services in all 13 judicial districts in the state through the independent contract services of approximately 260 attorneys throughout the state as well as non-contract attorneys who take appointments made from the bench in Family Matters cases.

The agency operated during FY 2007 with a permanent staff of six and two temporary employees. Over 93% of COCP's expenditures are used for attorney services, including expenses of litigation which directly benefit clients.

Initially, the COCP was under the auspices of the Division of Public Defender's Services for administrative purposes. Since July 1, 2007, the agency has become completely independent and is in the process of setting up a separate

Business Unit. As a result of the additional work and responsibilities, the CCPA promoted the Administrative Services Coordinator to Manager of Administrative Programs and the Fiscal Administrative Supervisor to Financial Program Manager.

**Office of the Chief Child Protection Attorney
Table of Organization as of July 1, 2007**

Chief Child Protection Attorney:
Carolyn Signorelli

Manager of Administrative Programs:
Susan Forbes

Financial Program Manager:
Valerie M. Clark

Paralegal Specialist: Jaime Delarosa
Paralegal Specialist: Vacant
Receptionist/Clerk: Frances Wickstrom

Accountant Assistant: Nicholas Fanis
Accountant Assistant: Amy Baez
Accountant Assistant: Deborah LeClerc

COCP Attorneys

The COCP currently contracts with approximately 260 licensed attorneys. These attorneys are professionals who live and work in your local communities and legislative districts. They are primarily solo practitioners who, up until now, received little or no specialized training in child protection. The COCP also contracts with a handful of general practice firms and with Greater New Haven Legal Aide, Connecticut Legal Services, the Center for Children’s Advocacy and Lawyers for Children America to provide representation to children. These attorneys are not only providing legal representation, but also GAL services, yet few have received sufficient specialized training around the issue of assessing the “best interest” of a child.

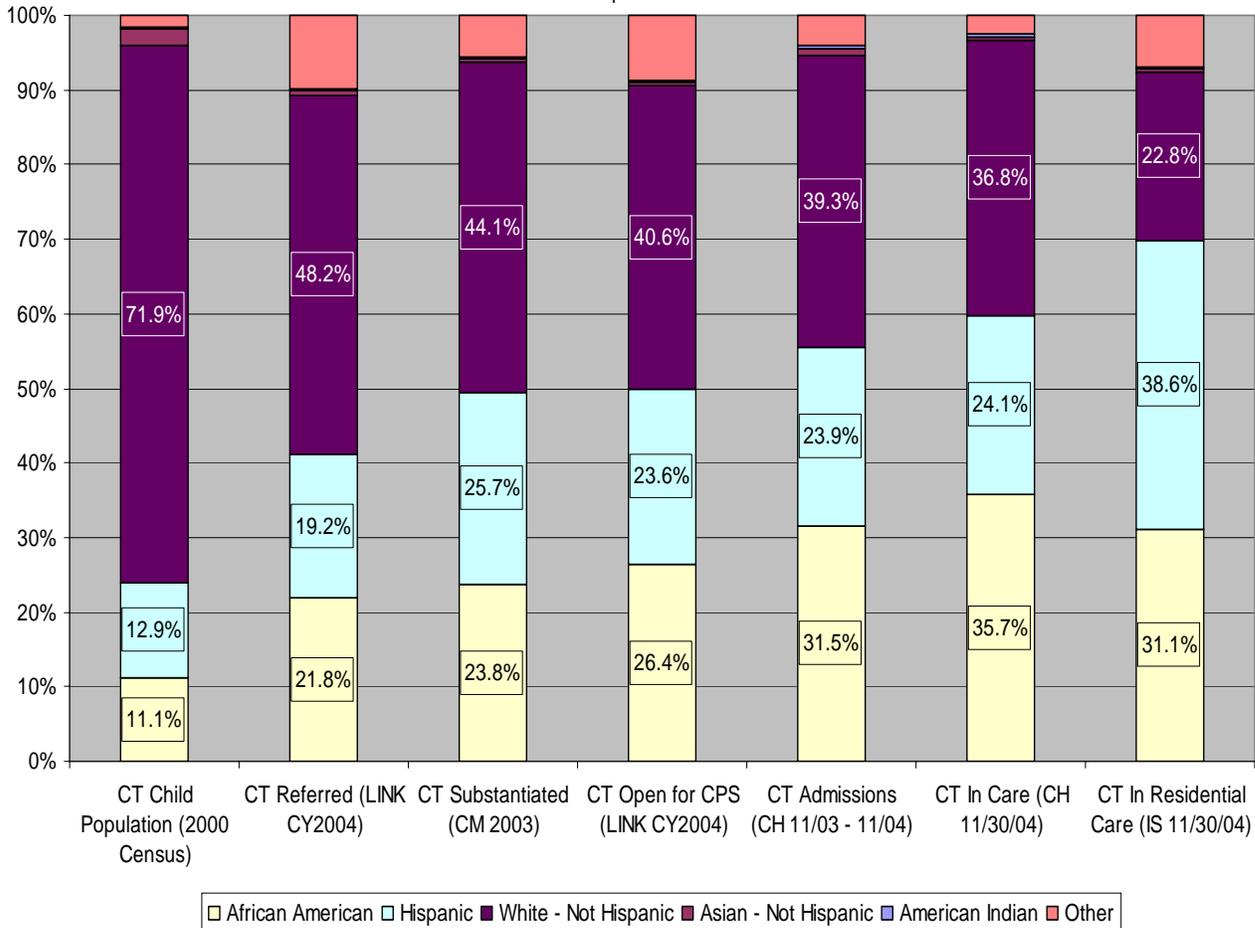
The Families Represented

Contract attorneys represent children and parents who live in your communities—this year, close to 18,000. Primarily, their clients are children who have been alleged to have been abused or neglected and are the subject of a petition of neglect brought by DCF in the Superior Court for Juvenile Matters. COCP contract attorneys provide legal representation to children who are status offenders and subject to Family With Service Needs petitions. Youth who are considered delinquent are also assigned COCP contact attorneys when they require a separate GAL to represent their best interest. COCP has separate contracts with attorneys to provide legal representation to indigent contemnors in Family Matters cases, as well as putative fathers in support matters. These same Family Contract attorneys, along with non-contract attorneys, are also appointed by Judges and Magistrates in Family Matters to act as AMCs or GALs for the children who are the subject of these proceedings.

The racial and ethnic composition of the children and families served by the COCP is largely reflected in statistics demonstrating the proportion of different racial and ethnic groups represented among families involved with DCF. As the graph below demonstrates, African-American and Hispanic families are represented disproportionately in our child protection system. This disparity is most pronounced as the degree of DCF involvement increases from the initial referral to placement of a child out of the home.⁴

⁴ Chart provided by the Department of Children and Families.

Path Through the Child Welfare System by Race and Ethnicity
CT Child Population



In spite of the number of African-American and Hispanic families being served, the total number of African-American contract attorneys is 10 and the total number of Hispanic attorneys is 6. Competent minority attorneys are highly sought after in the private sector and the COCP needs to be able to provide better incentives in order to provide more culturally competent representation to its clientele.

Support to the General Assembly

As a state agency, the COCP serves as a resource to legislators by providing information and answering questions concerning children’s issues, the attorneys who represent children, the office, legislation or specific information concerning children or attorneys in a legislator’s community. Examples of legislator services available from the COCP include:

- **The provision of information concerning the attorneys who serve in a legislator’s community.** The COCP will arrange for legislators to meet with

the attorneys in their district to gain personal knowledge of the unique issues within their communities.

- **The provision of child-specific information for a district.** The COCP provides legislators with data on the number of cases involving COCP-contract attorneys, the case types in which children are represented and the issues presented.
- **Assistance with constituent complaints, concerns or questions.**
- **Legislative assistance.** The COCP can review legislation, offer input and testimony and is available to work with legislators on any proposed legislation concerning children.

LEGISLATIVE MANDATES

Generally

There are many federal and state statutes that pertain to the work of the COCP. These include the Child Abuse Prevention and Treatment Act (CAPTA), which requires the appointment of a GAL in child protection court proceedings; Titles IV-B and IV-E of the Social Security Act set up a scheme of financial penalties to states that do not move towards permanency for children within statutory timeframes; the Adoption Assistance and Child Welfare Act of 1980 (AACWA) tied financial incentives to child welfare agencies making reasonable efforts to prevent removal, to reunify families and to achieve adoptions for foster children; the Adoption and Safe Families Act clarified AACWA by making “the child’s health and safety ... the paramount concern.” COCP lawyers must be well versed in this federal legislation, as well as a myriad of other entitlement statutes, such as the A.D.A., Special Education law, the McKinney-Vento Homeless Assistance Act and the Multi-Ethnic Placement Act, in order to understand the requirements placed upon DCF, their client’s rights and entitlements, and the necessary court and administrative processes to fulfill these federal funding mandates.

CAPTA’s requirement that a GAL be appointed to children in child protection proceedings has a profound influence upon the role of the COCP contract attorneys when representing their clients and the nature of the representation received. In order to receive the federal funding linked to this mandate, pursuant to C.G.S. 46b-129a⁵, attorneys are appointed in Connecticut as both

⁵ C.G.S. § 46b-129 reads in pertinent part as follows: “In proceedings in the Superior Court under section 46b-129 ... (2) a child shall be represented by counsel knowledgeable about representing such children who shall be appointed by the court to represent the child and to act as guardian ad litem for the child. The primary role of any counsel for the child including the counsel who also serves as guardian ad litem, shall be to advocate for the child in accordance with the Rules of Professional Conduct. When a conflict arises between the child’s wishes or position and that which counsel for the child believes is in the best interest of the child, the court shall appoint another person

attorney and GAL for children. This means that they provide client-directed representation to the extent possible focused on legal rights, while simultaneously assessing their minor client's best interest as GAL and ensuring that steps are taken to protect their child client's well-being. This statutory framework, which is tied to both federal funding requirements and philosophical perspectives on the ability of minors to enforce legal rights, has significant ethical and training implications for contract attorneys, as well as financial implications for the COCP due to the number of separate GALs that are appointed whenever an attorney/GAL perceives a conflict between their child client's expressed or implied wishes and their client's best interest. On average 1500 children are appointed separate GAL's per year for a cost of approximately \$750,000.00.

Indigent parents are statutorily entitled to representation pursuant to C.G.S. Section 46b-135(b). State statutes governing DCF and its obligations to the parents and guardians they investigate and the children in its care, also recognize the importance of the role of counsel in ensuring that the legal rights of the families it serves are respected. ⁶

Specific Enabling Legislation:

Connecticut state statute, Section 46b-123c, et seq., is the specific legislation establishing the COCP and setting forth mandates that it must meet in order to create and maintain a consistent and high quality legal representation system for children and parents.⁷

The mandates listed in the statute, as amended by P.A. 159, include the following:

The Chief Child Protection Attorney shall:

- Establish a system to provide legal services and guardians ad litem to children, youths and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such legal services and guardians ad litem, provided legal services shall be provided to indigent respondents pursuant to this subparagraph only in paternity proceedings and contempt proceedings, and legal services and guardians

as guardian ad litem for the child. The guardian ad litem shall speak on behalf of the best interest of the child and is not required to be an attorney-at-law but shall be knowledgeable about the needs and protection of children. In the event that a separate guardian ad litem is appointed, the person previously serving as both counsel and guardian ad litem for the child shall continue to serve as counsel for the child and a different person shall be appointed as guardian ad litem, unless the court for good cause also appoints a different person as counsel for the child. No person who has served as both counsel and guardian ad litem for a child shall thereafter serve solely as the child's guardian ad litem.”

⁶See, e.g., C.G.S. Sec. 17a-16.

⁷ Appendix I: P.A. 07-159

ad litem to children, youths and indigent legal parties in proceedings before the superior court for juvenile matters, other than legal services for children in delinquency matters.

- Establish a system to ensure that attorneys providing legal services pursuant to this section are assigned to cases in a manner that will avoid conflicts of interest, as defined by the Rules of Professional Conduct; and
- Establish training programs and curriculum designed to ensure proficiency in the procedural and substantive law related to child protection matters and to establish a minimum level of proficiency in relevant subject areas, including, but not limited to, family violence, child development, behavioral health, educational disabilities and cultural competence.
- Establish Standards of Practice for the representation of children, youths, indigent respondents and indigent legal parties. Such standards shall be designed to ensure a high quality of legal representation.
- Establish caseload standards consistent with an attorney's ability to provide diligent and thorough representation for all child protection clients.
- Promote best practices any contract entered into for the provision of legal services may include terms encouraging or requiring the use of a multidisciplinary agency model of legal representation.
- Establish a list of qualified attorneys from which the judicial authority may appoint GALs and AMCs in Family Matters custody cases.
- Administer a billing, monitoring and payment system for attorneys who provide representation to children.

COCP ACCOMPLISHMENTS FISCAL YEAR 2006/2007

This section provides a detailed overview of how the COCP has fulfilled its legislative mandates.

Establish a System Of Representation In Child Protection, Custody and Support Matters

By way of background, the COCP conducted a search for the Chief Child Protection Attorney (CCPA) after its creation and appointment of members from October of 2005 through March of 2006. On March 31, 2006 the CCPA began employment and interviewed and hired 5 staff members by May of 2006. Due to the statutory mandate that the COCP implement the system of representation by July 1, 2006 and its level of funding, the CCPA determined, with approval from the Commission, that the current contract system being administered by the Judicial Branch should be transitioned to the COCP. Continuation of the contract system was also recommended by the Governor's Task Force on Justice for Abused Children (GTFJAC) as the most cost-efficient manner to provide these services in its *Recommendations to the Chief Child Protection Attorney* produced by its subcommittee on The Quality of Legal Representation of Children and Families in June of 2006.⁸ Through the cooperation of the Public Defender's Office and the Judicial Branch, the system of assigning and paying the existing contract attorneys was transitioned to the COCP by July 1, 2006.

The CCPA formulated a Strategic Plan for implementing the COCP's statutory mandates. The plan consisted of a Short Range Plan to address immediate operational needs and initial assessment measures to help finalize a preliminary Long Term Strategic Plan.

Exploring Alternative Models of Legal Representation

During the Summer of 2006, the COCP undertook the task of following up on the research begun by the GTFJAC regarding the various organizational models utilized to provide legal representation in the child protection field in order to assess the best means to fulfill its legislative mandate of providing quality representation by attorneys proficient in the subject areas that inform child welfare practice. Through the initiative of Commission member Shelley Geballe, who also serves as the President of CT Voices for Children, law students from Yale's Legislative Services Program researched and published a White Paper entitled *Giving Families a Chance: Necessary Reforms for the*

⁸ Appendix II: "Recommendations to the Chief Child Protection Attorney" Committee on Quality of Legal Representation, GTFJAC, June 2006

*Adequate Representation of Connecticut's Children and Families in Child Abuse and Neglect Cases.*⁹

The paper explained the different models, their relative benefits and strengths in providing quality representation and analyzed their cost-effectiveness in contributing to the goals of safety and permanency for children. The paper concluded that the model that embodied best practice legal representation in the child protection field in terms of providing the necessary holistic representation these cases require is an organizational model where the attorneys providing the representation are employed, supervised and trained centrally and supported by a multi-disciplinary staff including paralegals, social workers, supervisors and consultants.

As part of its research into best practice, the CCPA attended NACC's National Conference on Child Welfare Law Practices in order to understand the various organizational structures of such a model and to research resources for technical assistance and funding for implementation. The CCPA also spent a day with the San Diego Public Defender Office's Child Protection Department staff to study its organizational approach and case management system. The COCP also collaborated with CT Voices, Casey Family Services, OCA, the Judicial Branch, CCA and others in a legislative forum addressing the issues of inadequate representation and exploring the various models through presentations from the Public Defender's Office in Chicago and from the Director of the Center for Family Representation, a New York not-for profit agency.

In an effort to pilot this multi-disciplinary organizational approach to legal representation in child protection, COCP proposed legislation, in conjunction with a coalition of child welfare advocates in CT, that would fund a model pilot project in two court locations. Although funds were not appropriated specifically for this purpose, the COCP did achieve passage of technical amendments to its enabling legislation which included the ability to seek private funding for its initiatives.¹⁰

The CCPA is currently working with KidsVoice, a not-for-profit agency providing a multi-disciplinary model of representation to 5000 children in Pittsburgh, PA, to collaborate on securing foundation funding and technical assistance for the implementation of a pilot program to assess the organizational model's efficacy and costs in Connecticut.

⁹ Yale White Paper: "Giving Families a Chance: -Necessary Reforms for the Adequate Representation of Connecticut's Children and Families in Child Abuse and Neglect Cases" - Executive Summary : http://www.ctkidslink.org/pub_detail_345.html

¹⁰ See fn 7.

IMPROVING THE CURRENT INDEPENDENT CONTRACTOR MODEL OF REPRESENTATION

COCP's Annual Evaluation and Contract Process

During the Fall of 2006 the CCPA traveled to each Superior Court for Juvenile Matters and met with court staff and the contract attorneys to assess the needs in those courts, share information about the COCP's goals and plans and obtain feedback from the attorneys about past, current and future concerns. The CCPA completed an assessment regarding resources and training needs of the attorneys. In its first year the COCP also required every attorney, whether currently under contract through the assignment of the Judicial Branch contracts to the COCP or interested in providing services in the upcoming year, to complete an application, background and reference check process. Some attorneys were interviewed.

The CCPA, in cooperation with the Judicial Branch, and specifically Connecticut's CIP grant monitor, Marilou Giovannucci, convened a workgroup to create surveys designed to assess attorney performance. This workgroup was made up of child protection attorneys and judges from Connecticut and enlisted technical assistance from the American Bar Association and the Muskie Institute. The CCPA provided the workgroup's questionnaires to Casey Family Services research staff who voluntarily created the surveys and started work on a data base for analysis of the survey results. With the assistance of the Judicial Branch, DCF Adolescent Services and Connecticut Association of Foster and Adoptive Parents, surveys were distributed and collected from court personnel, Assistant Attorney Generals', contract attorney, youth in care over 14 and parents with known addresses. The CCPA utilized the surveys returned as an additional tool in the overall assessment process, which included investigating complaints received, application review, checking references and courtroom observation.

At the conclusion of this process, the COCP contracted with over 220 attorneys, including 56 new attorneys, and chose not to contract with those attorneys identified as not meeting COCP's standards of practice. The COCP also only issued contracts to attorneys for one court assignment. In this way, inefficiencies caused by individual attorney scheduling conflicts have been reduced and will be minimized even further as those attorneys who had two court assignments close their cases in their former court. (This effort does not, however, address conflicts created by a system where the child protection attorneys are also solo-practitioners handling other types of cases.)

The COCP's annual appraisal process serves as a method of monitoring attorney services and seeks to ensure that only the most qualified attorneys provide legal representation for children. It also helps the COCP address systemic needs within each jurisdictional district, such as the need for additional or fewer attorneys, training on a specific issue or the facilitation of

communication between local actors within the system. The COCP anticipates the annual completion of this process prior to the beginning of each fiscal year for at least the next 2 years. It is contemplated that this process may be reduced to every 2 years in order to decrease administrative costs and allow the CCPA and COCP staff to focus on more thorough evaluations, provision of training, and monitoring of case activities and outcomes.

During this year's assessment and contract process, the COCP was able to make improvements in representation by: 1) assessing individual court needs and ensuring adequate coverage; 2) denying contracts for some attorneys who did not meet the expectations set forth by relevant rules, statutes, the contract and the Standards of Practice; 3) bringing new qualified and dedicated attorneys into the field; 4) requiring those new attorneys to receive pre-service training and to accept a mentor prior to any cases being assigned; and 5) renewing contracts of those attorneys who provide excellent services.

The COCP has plans to include in its future assessment process as much in person observation of court proceedings. Those existing contract attorneys about whose performance the COCP has concerns, will be interviewed and in some instances undergo a case auditing procedure prior to the offer of a new contract. In addition, personal interviews with new applicants will be required going forward. However, these measures, although necessary, may be difficult to implement given the CCPA's responsibilities and current complete lack of staff attorney support.

Advocating for a Reasonable Hourly Rate for Contract Attorneys

Research performed by the CCPA, including information gathered by the ABA Child Law Center, compared Connecticut's child protection attorney pay rate with other states and found that despite being one of the richest states in the nation, Connecticut paid its child protection attorneys at one of the lowest rates. Therefore, one of the COCP's major initiatives and goals during the 2007 legislative session was to secure adequate funding in order to pay the attorneys that do this work a fair and reasonable hourly rate. In consideration of state budget constraints, the CCPA merely requested a \$60.00 per hour rate. An appropriation was granted for a \$40.00 per hour rate. This is significantly less than the hourly rate for special public defender's handling criminal defense matters.

Although the COCP did not achieve its goal of financing a rate of \$60.00 per hour, the legislature did recognize the importance of an hourly rate in order to encourage attorney diligence on behalf of their clients and to monitor services being provided by increasing COCP's funding to provide attorneys the \$40.00 per hour. The COCP will be requesting a pay raise for its attorneys in the upcoming fiscal year budget request process. An increase that reflects parity with Special Public Defenders and demonstrates a recognition of the value of

legal representation for families that are subject to DCF petitions of neglect and abuse and emergency removals of children from their homes is essential if the intent of P.A. 05-3 is to be honored. A fair and equitable hourly rate will enable the COCP to require all attorneys to bill only for work performed, thus encouraging increased preparation and more aggressive advocacy. A higher hourly rate will enhance retention of more of the experienced competent attorneys who are currently able to stay in this line of work by handling a high volume of cases at a flat fee per case. It will also enable those new attorneys that are interested in committing to child welfare law as a career to make a living doing this work and thus devote the time and gain the expertise necessary for this complicated field of practice.

Due to the uncertainty of the budget at the time the existing contracts were due to expire, the CCPA required all new attorneys to accept an Hourly Rate Contract at \$40.00 per hour. More experienced contract attorneys were offered a choice between the flat rate and hourly contracts. Due to the low hourly rate being offered, the vast majority of attorneys given the choice opted for the flat fee contract. However, we now have a cadre of approximately 60 attorneys who have relatively low caseloads and who receive compensation based upon the amount of work they perform for their clients. The COCP hopes to track their time, the nature of their case activity and their performance in order to assess the efficacy of the hourly rate. These hourly contract attorneys are required to provide detailed descriptions of their work performed when submitting their bills, they must report when their last meeting with their child client occurred, and they must also enter certain benchmarks which reflect the nature of their advocacy, i.e., dismissal after and OTC trial, and progress towards permanency, i.e., date of reunification.

Monitoring Hourly Billing Statements to Assess Quality of Services

The CCPA accounting staff reviews hourly billing statements provided by the attorneys who bill excess hours and have hourly rate contracts in order to ensure that the work done on a case is adequate and that state dollars are used for only allowable expenditures. They will often consult with the CCPA and our paralegal specialists on these issues. This is the most effective way to monitor services on any given case given current staffing and the resulting lack of presence in the local courts. Flat rate contract attorneys are also required to report on their monthly billing forms when they last visited their child client.

Establish A Conflict Free Appointment System

COCP had one position for a paralegal to handle all the appointments in child protection cases throughout the state during its first year. Initially, the Judicial Branch provided access to its Attorney Appointment System in order to ensure this task would continue to be performed smoothly and consistently

during the transition. By all reports the transition was quite smooth and the timely provision of legal counsel to entitled parties was for the most part uninterrupted. Delays and glitches that occurred were quite frankly not any different or greater in number than what would sometimes occur when the Judicial Branch was responsible for the task.

Currently, COCP has two paralegal positions to fulfill this task, which will ensure uninterrupted appointments during illness and vacation and which will allow the CCPA to assign additional responsibilities that require the skills of a paralegal.

The Judicial Branch has recently streamlined the notification process regarding new cases filed and needing counsel appointed. Previously a fillable form created by COCP was completed and emailed by the clerks to COCP's paralegal. The information from that form was entered into the Attorney Appointment System on every case by our paralegal, an attorney was chosen, and then the paralegal followed up by entering the attorney's name into the form and emailing it back to the clerks and to the assigned attorney. The information was also passed on to our accounting staff so that they could enter it into our Attorney Billing System.

Recently, the Judicial Branch created a new access screen in their Case Management Information System (CMIS) called CP60. This function requires the clerks to simply enter the case data in CMIS one time and then our staff can directly view the CP60 screen daily to see the new cases that require assignments. Our paralegals currently must still enter the information into the Attorney Appointment System in order to track case assignment information.

COCP has secured contingency funding through OPM and approval from DOIT to purchase its own case management information system which will streamline the appointment process, communication to and from attorneys, billing procedures, and tracking of outcome measures. The system will additionally provide attorneys with an internal activity and case management tool. KidsVoice of Pittsburgh, PA has created a CM/IS specifically designed for attorneys representing children in child protection proceedings and it has been approved by DOIT as the provider who will be designing COCP's case management system to its specifications.

In relation to ensuring there is no conflict when appointments are made, currently the only means of addressing this issue is for COCP staff to separately check the Judicial Branch CMIS for case history. However, there is insufficient staff and time to perform this check on every case. Often clerks who are familiar with the history and have access to the case file and CMIS system on a regular basis will share historical information with COCP in order to avoid an inappropriate appointment or ensure that an attorney who previously represented the client is reassigned. Given staffing constraints, there is insufficient time for COCP staff to check other systems, such as Civil,

Family or Criminal Matters in order to check for conflicts. Therefore, as required by the Professional Rules of Conduct, attorneys remain primarily responsible for performing a conflict check and to inform COCP as soon as possible if they discover a conflict so that another attorney can be assigned.

As the Judicial Branch moves forward with addressing technology and information sharing issues and as the COCP begins to develop its own Information System and historical data, COCP will be in a better position to ensure that there is no conflict at the outset of a case and, thereby avoid delays in the provision of representation. Overall, this is not a tremendous problem in Connecticut's system. Children and parents have representation in most cases from the outset of a case coming into court and delays for parents are usually caused by their own failure to present at court and request an attorney. Conflicts are usually discovered very early in a case and, although a problem due to a conflict does arise on occasion, it rarely causes a significant delay or prejudice to the clients, at least not enough in the CCPA's estimation to consider this a significant systemic problem.

ESTABLISH TRAINING PROGRAMS AND CURRICULA

Mandatory Pre-Service Training and Mentoring¹¹

All new contract attorneys are required by their contract to participate in three days of pre-service training, presented by the Center for Children's Advocacy and various state experts in the child welfare field. Last year the three days were scheduled during the months of September, October and November and most new attorneys who had applied to COCP for a contract after July 1, 2006 were not permitted to accept a case until December of 2006. These attorneys, approximately 16, were informally assigned volunteer mentors to assist them as they undertook this practice.

The 2007/2008 contract sets forth the following training requirements for the new contract attorneys:

- Any New Contractor (an attorney receiving a contract to provide representation in juvenile matters for the first time commencing July 1, 2007) certifies that he or she will attend the three day pre-service training provided by the CCPA and complete 2 of the 3 days of pre-service training prior to receiving any cases, at least 3 of the 4 In-Service trainings and 3 of the 5 Bi-Monthly trainings offered through the Center for Children's Advocacy between July 1, 2007 and June 30, 2008.

¹¹ Appendix III: Agreement: Legal Representation of Children and Indigent Legal Parties in Juvenile Matters Hourly Rate Contract.

- Any New Contractor certifies that he or she will participate in the Mentor Program offered by the CCPA and fulfill its requirements of observing the assigned mentor for one month prior to receiving any cases and accepting supervision from the assigned mentor for at least two cases and perhaps more if recommended by the assigned mentor.

Under this program, mentors are required to prepare an evaluation of their mentee prior to receiving their fee for mentoring services.

Mandatory In-service Training

The 2007/2008 Contracts for renewing contract attorneys provide the following training requirements:

- Any Contractor who is herein renewing their prior contract with the CCPA certifies that he or she will attend a minimum of 2 of the 4 In-Service Trainings and 2 of the 5 Bi-monthly trainings offered through the Center for Children’s Advocacy between July 1, 2007 and June 30, 2008. All Contractors who agree to provide representation in FWSN and Delinquency Matters will be required to attend a mandatory FWSN and Delinquency Training to be offered in the Fall of 2007.

The In-Service Trainings are designated to address the non-legal topics set forth in C.G.S. § 46b – 123d(3). The bi-monthly trainings provide attorneys with updates on child welfare law, procedure and policy and their implications for practice.

ADDITIONAL TRAINING INITIATIVES AND OPPORTUNITIES:

NACC’s Annual National Children’s Law Conference

The GTFJAC’s Quality of Legal Representation Committee recommended that the CCPA provide scholarships to attorneys to attend national child welfare conferences. These venues are extremely valuable as far as obtaining the most up to date information regarding child welfare, training on legal and evidentiary issues and motivation for practicing in this difficult field. Through the efforts of the Chair of the Quality of Legal Representation Committee and the CCPA, the GTFJAC has authorized \$20,000 for FY 2007 and \$40,000.00 for FY 2008 to send child protection contract attorneys to the NACC and other national conferences. So far the CCPA has arranged for 36 attorneys to attend the 2006 and 2007 NACC Conferences. These attorneys are required to present to their local bar on a topic covered at the conference. Last year the CCPA in conjunction with the local courts and/or the regional DCF offices arranged for attorneys who attended the conference to present to local attorneys, court staff and DCF personnel at Collaborative Forums around the state.

National Institute of Trial Advocacy's Trial Skills Training in Child Protection

The most important skills any child protection attorney can possess are trial skills. The ability to competently defend or put on a case at trial is essential to a lawyer's ability to protect a client's rights in the face of governmental intrusion into private family life. When a client and the other parties, especially the Petitioner/DCF, cannot agree, a trial is the only means to ensure that the state's involvement is proper and that decisions regarding a child's placement and future are based upon a full and objective review of all relevant facts.

The COCP secured \$60,000.00 of Court Improvement Project Training Grant Funds through the cooperation of the Judicial Branch and its State CIP Coordinator, Marilou Giovannucci. The funding was utilized to bring the NITA Child Advocacy Trial Skills Program to Connecticut at the St. Thomas Moore Conference Center at Yale University. For three days during the Judges Institute in June of 2007, 56 contract attorneys and 8 Assistant Attorneys General received intensive trial skills training through dynamic lectures, group exercises and small skills workshops. The program was a tremendous learning experience for all involved and even the most seasoned child protection attorneys expressed enthusiasm about the valuable insights and practice they gained during the program. The camaraderie and inspiration for the work that this experience engendered among the participants was as valuable as the skills learned as Connecticut and the COCP strive to bring pride in the work among practicing child protection attorneys and respect to the field among the Bar and all three branches of government.

The COCP hopes to continue to secure the necessary funding through the CIP training grant in order to hold an annual trial skills training program specifically geared to child protection litigation. The intent would be for these trainings to remain open to contract attorneys and AAGs. COCP believes such cross-training promotes the highest level of practice in our child protection courts and thus the most appropriate outcomes for the children and families the system serves.

American Bar Association: Children's Law Center, Child Welfare Law Conference

The COCP sent 10 attorneys to a three day seminar in Boston where attorneys had the opportunity to hear from the most renowned experts in the field of child welfare at Harvard School of Law.

Connecticut Bar Association: CLE's and Annual Meeting Juvenile Law Track

The COCP sent several juvenile contract attorneys with identified training needs to CLE's offered by the CBA on topics including professional ethics, trial skills and brief writing.

The COCP, the Center for Children's Advocacy, Yale Child Study Center and the CBA teamed up to present a Juvenile Law Track at this year's Annual Meeting. Juvenile Contract Attorneys attended free of charge.

Lawyers for Children America CORE and Special Topic Trainings

The COCP reached an agreement to permit Juvenile Contract Attorneys to attend LCA's CORE trainings for their pro bono child protection volunteers as a means to supplement mandatory training requirements and address some new attorney scheduling conflicts with the mandatory pre-service training.

The COCP also helped to support LCA's Special Topic Trainings offered twice per year to all stakeholders in the child welfare field.

DCF Training Academy

Commission member, Shelley Geballe, and the CCPA met with the Training Academy leadership in order to discuss potential IV-E funding for training of DCF committed children's legal representatives and potential cross-training opportunities. At that meeting DCF offered to open up relevant Training Academy social work courses to COCP contract attorneys. The schedule was placed on the COCP website and several attorneys did take advantage of this opportunity prior to DCF's implementation of a new training schedule. The COCP hopes to obtain this schedule in the near future and provide the information to its attorneys.

Establish Standards Of Practice Designed to Ensure A High Quality Of Legal Representation

In June of 2006, the CCPA drafted proposed Standards of Practice based upon the NACC's model standards of practice for the representation of children. The COCP, pursuant to the leadership of Commission member Paul Chill, convened two workgroups to study, discuss and amend the NACC's Model Standards for Child Representation and the recently promulgated ABA Standards of Practice for Parent representation. The workgroups met from June of 2006 through October of 2006 and issued draft Standards for Connecticut in October.

The proposed Standards were placed on the COCP's website and emailed to all contract attorneys for review and comment. After 2 weeks and review of the

comments received, the Standards were finalized by both workgroups. The COCP approved and the CCPA published the Standards on its website and emailed them to all contract attorneys on November 16, 2006.¹² The Standards were published in the Connecticut Law Journal in January 2007.

Establish Caseload Standards

During April and May of 2006 the CCPA analyzed the appropriation provided the COCP and determined that there was sufficient funding to increase the existing flat rate of \$350.00 per hour to \$500.00 per hour. In so doing, the CCPA ensured that the bulk of its budget was spent directly on representation, attorney caseloads could be reduced slightly without creating financial loss, and additional attorneys were enticed to enter the field and further enable the COCP to reduce caseloads.

During its first 6 months of operation the COCP contracted with an additional 14 contract attorneys and as of July 1, 2007 had added 36 more attorneys to its contracts. New attorneys, unless they had prior experience practicing in juvenile matters, are only permitted 25 cases during their first year.

Existing contract attorneys were only permitted to request 100 cases. However, due to case coverage needs in the courts and the need to retain those existing experienced and qualified attorneys, not all contracts could be limited to 100 cases at this time.

Since taking over in July of 2006 the COCP has reduced the number of attorneys who have been appointed clients in excess of 150 from 53 attorneys to only 26 attorneys. The number of attorneys with client assignments in excess of 100 has been reduced from 73 to 58 attorneys. This was primarily achieved by bringing on some new attorneys and by strictly utilizing the ratio based Attorney Appointment System.

Under the contracts previously issued by the Judicial Branch, 56 attorneys were given contracts for 100 or more cases, 41 of those were for contracts of 150 or more. The COCP's FY 2008 contracts reduced those numbers to 32 and 23, respectively. The vast majority of contract attorneys have a maximum caseload of 100 or less. However, the total cases that will actually be assigned during FY 2008 will ultimately depend upon the number of petitions filed in court by DCF. Presuming the number of new clients in the system remains roughly the same, attorney caseloads, although still too high in many respects because most of the contract attorneys do not practice solely in the child protection field, should be more manageable going forward.

¹²Appendix IV: Summary of Standards of Practice:<http://www.ct.gov/ccpa/cwp/view.asp?Q=320836&A=2587> issued pursuant to C.G.S. Sec. 46b-123d., issued pursuant to C.G.S. Sec. 46b-123d.

In spite of this numerical improvement, it remains imperative that more attorneys are encouraged to commit to and focus on child protection work as a career. If the COCP cannot accomplish this, the cadre of attorneys doing this work will remain in a constant state of flux, as new talented attorneys starting out in practice are trained and gain experience but ultimately leave for better paying opportunities. The time, effort and dollars spent to train attorneys will have a reduced rate of return, while increased expectations and greater work requirements placed upon qualified experienced attorneys without a significant increase in remuneration will render the goal of a child protection bar with the necessary expertise and commitment to these cases illusive.

Encourage Or Require the Use Of A Multidisciplinary Agency Model of Legal Representation

Based upon the CCPA's own research, the research and conclusions of the *Yale White Paper*¹³, as well as the recommendations of national child welfare experts such as the NACC,¹⁴ the COCP proposed amendments to its enabling legislation that permitted it to encourage a multi-disciplinary approach to the practice of child welfare law among those attorneys and firms contracting with the COCP, to allow the COCP to contract with not-for-profit agencies to provide representation, and to permit the COCP to pursue outside funding to achieve its goals of ensuring quality legal representation. These amendments were passed pursuant to P.A. 07-159.

The current contract between COCP and the hourly contact attorneys providing representation includes a provision that permits attorneys to bill at a reduced hourly rate for services provided by paralegals, paid legal interns and properly supervised social workers.

The CCPA is hoping to bring a pilot model child welfare law office to Connecticut in the near future through the Budget Options process, or if necessary, through outside funding. COCP will issue an RFP for qualified child welfare law firms and not-for-profit legal service agencies to create and operate a multidisciplinary model office in at least one of the state's Judicial Districts. The CCPA is forming its RFP Team and will be working with KidsVoice of Pittsburgh, PA and resources from the NACC's Child Welfare Law Office program to develop the RFP.

¹³ See fn 9

¹⁴ NACC's National Child Law Office Program: <http://www.naccchildlaw.org/about/nclop.html>

Establish A List Of Qualified Attorneys From Which The Judicial Authority May Appoint Guardian Ad Litem and Attorneys For Minor Children In Family Matters Custody Cases

The COCP's enabling legislation also included in its responsibilities the establishment of a system of representation for children of indigent divorce and custody litigants, including providing training, ensuring quality and appointing the attorneys.

Upon consulting with the Judicial Branch regarding the needs of the Family Matters Division in divorce and custody matters it was determined that the issues of quality and training were not as pressing as in Juvenile Matters. The reason for this is that the number of cases requiring state paid AMC's and GAL's in divorce and custody cases is relatively small. The privately hired attorneys that regularly practice on the divorce and custody side of Family Matters typically would meet this need for representation upon the request of the court. Many of these attorneys, due to the inherent competition in matters requiring private retention are quite competent and are willing to do the work pro bono.

Due to the pressing needs in the Juvenile Matters Division and due to the limited staff of the COCP, a technical amendment was proposed to reduce the responsibility for appointing these attorneys and simply require a list from which the Judges in these proceedings can choose to make necessary AMC and GAL appointments in cases involving indigent litigants. Currently the list is based upon those attorneys already identified by the Judicial Branch as eligible for such appointments.

The COCP does recognize that the role of AMCs and GALs in divorce and custody proceedings is often equally important as the role of child protection attorneys and that these attorneys also have challenging responsibilities and require specialized training. To that end the CCPA has formed a Family Matters Advisory Board whose members are as follows:

Hon. Gruendel
Hon Solomon
Hon. Julia Dewey
Professor Carolyn Kass, Quinnipiac Law
Attorney Justine Rachik-Kelly, Director Children's Law Center
Attorney Steven Dembo
Attorney Sharon Dornfeld
Attorney Tom Collins
Attorney Susan Connolly

This Board has met on two occasions to discuss training issues and future "certification" requirements. Two of its members, Professor Kass and Sharon Dornfeld have put together a draft training manual, which the COCP intends to

make available to attorneys via its website and during future trainings facilitated by the Board. In order for attorneys to be added to the list of Certified AMCs and GALs they will need to complete an application, undergo a background check and participate in future trainings.

Magistrate Court and Support Enforcement

The CCPA is also responsible for providing representation for indigent contemnors and putative fathers in family matters. This representation primarily occurs in support enforcement proceedings before the Magistrate Courts. The CCPA is currently administering the contract system for this representation established by the Judicial Branch.

In order to understand this system better and begin to assess necessary improvement, the CCPA formed the Magistrate Support Court Advisory Board. The Board members include:

Chief Magistrate John McCarthy
Magistrate John Colella
Magistrate Linda Wihbey
Attorney Joseph Auger
Attorney Terrence Wynne
Attorney Marc Darren

This Board has met on two occasions resulting in some changes to the Family Matters Contempt and Paternity Contract that included allowing attorneys to bill each fiscal year for cases that are continued indefinitely in order to monitor compliance of obligors with support orders. Due to the complicated nature of the system and cases and the variances in the case handling among courts, the CCPA has determined that in order to responsibly address any further changes and their budget implications, the CCPA should appoint and the legislature should fund a position for Director of Family Matters Contempt and Paternity Representation.

ADMINISTER A BILLING, MONITORING AND PAYMENT SYSTEM FOR ATTORNEYS PROVIDING REPRESENTATION

COCP implemented a web-billing system on July 1, 2006

As of October 1, 2006 contract attorneys were required to begin utilizing forms created by the COCP's Financial Program Manager and available on its website for billing purposes. This streamlined the billing process and enabled the COCP's small billing staff of two accountants and the FPM to handle all phases of bill processing for the state. This process was previously handled by clerk

staff in all 13 Judicial Districts as well as Court Operations staff and the Finance Department of the Judicial Branch.

The COCP accounting staff, in spite of their small numbers, goes to great lengths to ensure that billing and payments are accurate. The staff handles numerous daily calls from attorneys regarding billing questions and provides personal assistance to each caller. During FY 07 they caught and avoided \$165,000.00 in potential overpayments due to billing errors on the part of attorneys. The turn around time from receipt of bills to attorney receipt of payments where there are no errors or discrepancies is within three weeks.

SUMMARY OF COCP'S OTHER ACCOMPLISHMENTS THAT FALL OUTSIDE SPECIFIC MANDATES

In addition to its legislative mandates, the CCPA has undertaken initiatives to serve as a resource and offer technical support to its contract attorneys:

Appellate Advocacy Contract

The CCPA has entered into a specific contract for appeal services with ___ experienced appellate attorneys. This will ensure that clients who wish to appeal the outcomes of their trials will have a timely review of their case by attorneys competent to prosecute appeals.

Certification as Child Welfare Law Specialist

The CCPA proposed a Rule change in the fall of 2006 to the Rules of Professional Conduct in order to include the specialty as a Child Welfare Law practitioner as one of the recognized legal specialties in Connecticut. This change, with the support of Justice Peter Zarella, was approved by the Rules Committee in February of 2007 and by the Judges of the Superior Court on June 28, 2007.

The National Association of Counsel for Children is the organization recognized by the ABA as the authorized certification body for this specialty. The NACC has agreed to bring certification to the state of Connecticut and submitted its application to be recognized in Connecticut to the Legal Specialization Committee on September 14, 2007.

The COCP did secure one of its budget requests in the Governor's Budget, which was for funding in the amount of \$75,000.00 to conduct the Certification process.

Response to individual inquiries by Attorneys

The COCP regularly receives phone calls and emails from attorneys seeking assistance with cases. While the CCPA cannot give case specific legal advice to contract attorneys due to the Commission's responsibility for both child and parent representation, the CCPA does provide general guidance to attorneys and assists them in the resolution of their issues by guiding them to appropriate professionals, written materials and other resources.

Membership in the National Association of Counsel for Children

This membership is provided pursuant to a very reasonable bulk rate fee to all contract attorneys. This membership entitles attorneys to extensive resources on the NACC's website regarding legal issues in child welfare, a textbook on Child Welfare Law, a listserv with information sharing among child protection attorneys around the nation, and discounts on training programs.

The COCP Website

The COCP's website contains the Standards of Practice; Practice Tips for attorneys; lists of service providers, such as Marshals and Interpreters; training resources; postings on a wide variety of topics regarding the practice of children's law; consulting resources in specialized areas, such as education advocacy and cultural competency. Attorneys can access the website for all of their contract, billing and training information and forms. The website also includes links to other resources and relevant cites.

The COCP is in the process of working with DOIT to create its own listserv for just contract attorneys. The COCP is also creating a resource library/research station at its Hartford office for attorneys to access if necessary and is looking into the costs associated with providing web-based access for its contract attorneys to LEXIS or Westlaw.

CCPA COMMITTEE INVOLVEMENT

To effectively set policy, advocate for and serve the best interests of children, the CCPA must extend her activities and work beyond the prescribed list of statutory mandates. Successful advocacy for children requires collaboration and the sharing of resources among many state agencies, child advocate organizations and other interested professionals. There are many entities whose area of work impacts the mission of the COCP. As a result, the CCPA is an active participant on many state, Judicial, Legislative and Gubernatorial committees, boards and Task Forces. The following provides a sample of committees that the CCPA serves as a member of or initiated in the office's efforts to continually better serve the children of Connecticut:

- Children’s Trust Fund: Executive Board
- Governor’s Task Force on Justice for Abused Children
- Chief Justice’s Public Service and Trust Commission
- Family with Service Needs Advisory Board
- Children of Incarcerated Parents Legislative Committee
- Juvenile Court Rules Task Force
- State Court Improvement Project Workgroups:
 - Information Technology Workgroup
 - Training Grant Workgroup
- Connecticut Bar Foundation: James Cooper Fellows
- Oliver Ellsworth Inn of Court
- Connecticut Bar Association Committees:
 - Children and the Law
 - Professional Ethics
 - Liaison with State Government
- Commission on Child Protection Boards:
 - Family Matters Advisory Board
 - Magistrate Support Court Advisory Board

COCP BUDGET AND AUDIT OVERVIEW

Although the COCP’s budget requests submitted to the Office of Policy and Management were for the most part denied, the Governor did approve a request for funding in the amount of \$75,000.00 to certify attorneys as Child Welfare Specialists as defined by the American Bar Association.

Legislative Budget Process

The CCPA conducted a legislative advocacy campaign that included forwarding an introductory letter to all legislators; scheduling meetings with key legislators in the budgetary process; creating and updating Fact Sheets for legislators throughout the session; introducing legislation designed to improve the system of legal representation; coordinating the testimony of youth, foster parents and attorneys at pertinent public hearings; testifying at several Select Committee on Children, Judiciary and Appropriations Committee public hearings during the 2007 session; obtaining CBA endorsement of and lobbying support for proposed legislation; obtaining supportive testimony from key stakeholders in the child welfare system including the Commissioner of DCF, the Chief Court Administrator of the Judicial Branch, the Child Advocate, the Center for Children's Advocacy, Casey Family Services youth advocates, Yale Law School interns and others; and participating in a Child Advocacy Network formed to advocate for improved legal representation during the 2007 session.

Their Day in Court: Ensuring Adequate Legal Representation for Children and Parents in Child Protective Services Cases

In November of 2006 the Commission co-sponsored with the President Pro Temp of the Senate Don Williams, CT Voices for Children, Casey Family Services, the Office of the Child Advocate, the Center for Children's Advocacy, the Connecticut Bar Foundation and the Judicial Branch, a legislative forum entitled "Their Day In Court: Ensuring Adequate Representation for Children and Parents in Child Protective Services Cases." This forum explored the problems in the current system of legal representation in child protection and potential solutions. The forum was held in the Old Judiciary Room and attendees heard from a parent and a child about their unsatisfactory experience with the lawyers who were assigned to represent them in the juvenile court system. The speakers also included Mark Hardin, from the ABA's Children's Law Center, Robert Harris, Public Guardian for Cook County, Illinois and Michelle Cortese, Director of Center for Family Representation in the Bronx, New York who spoke about alternative models of representation and their efficacy. There was also a panel discussion with the speakers and the Chair of the Judiciary Committee, Senator Andrew McDonald, the CCPA, the Chief Court Administrator William Lavery, and the Vice President of the Juvenile Matters Trial Lawyers Association, Douglas Monaghan.

Yale Law Student White Paper¹⁵

The Commission on Child Protection, through the efforts of Shelley Geballe, Commission member and President of CT Voices for Children, precipitated and assisted in the research and writing of the paper mentioned previously, *Giving Families a Chance: Necessary Reforms for the Adequate Representation of*

¹⁵ See fn 9

Connecticut's Children and Families in Child Abuse and Neglect Cases. This paper was provided to all legislators and outlined the costs and efficacy of the various models of representation. The conclusion of the authors recommended a multi-disciplinary organizational model of representation focused solely on child welfare law.

The results of this research helped to crystallize the Commission's legislative agenda, which included Senate Bill 1269¹⁶. This proposed legislation was sponsored by Judiciary Co-Chair, Representative Michael Lawlor, and Representative Tom Reynolds. The bill included a provision for funding a model child welfare law office pilot project in two Judicial Districts.

Senate Bill 1269

The COCP sought, through its budget requests and legislative advocacy efforts, a pay increase for court appointed counsel from the existing \$500.00 flat fee for 30 hours of work to a straight \$60.00 per hour for work performed. COCP sought the increase and the hourly fee schedule for the following reasons:

- Child Protection cases have increased in complexity and require a significant amount of investigation and preparation, as well as mediation and advocacy skills.
- This area of law requires expertise in pediatric law, federal and state entitlement statutes and regulations, human services subject areas and resources, and mediation and trial skills. In addition to legal skills, lawyers must develop the ability to establish an attorney/client relationship with a child, as well as the ability to assess children's preferences and their capacity to make informed decisions.
- The discrepancy in pay compared to private attorneys and other state contract attorneys, such as Special Public Defenders, makes it extremely difficult to attract and retain experienced, qualified attorneys to commit to this difficult practice area.
- The CCPA performed a rate study comparing the Connecticut pay rate for child protection attorneys to other states. This study demonstrated that Connecticut had one of the lowest pay rates for child protection attorneys.

There were actually three bills that were raised during the COCP's first Legislative Budget Session that sought to respond to the Commission's legislative advocacy efforts to increase funding to pay child protection attorneys a reasonable hourly rate. Senator Anthony Guglielmo and Representative Penny Cacchiochi sponsored Senate Bill 1203 and Senator Edward Meyer

¹⁶ Appendix V: Senate Bill 1269

sponsored Senate Bill 864, both out of the Select Committee on Children. These bills proposed the \$60.00 hourly rate for child protection attorneys and were referred to the Judiciary Committee. The Judiciary Committee ultimately acted favorably on Senate Bill 1269 and referred it to the Appropriations Committee.

Unfortunately, the State's budget priorities prevented the General Assembly and the Governor from granting COCP's request for a \$60.00/hour rate. However, the Commission appreciates the Legislature's consideration of Senate Bill 1269 and its support of an hourly fee schedule. The CCPA plans to submit another request for a fair and reasonable rate to be provided to attorneys in the next fiscal year.

House Bill 7238/ P.A. 07-159¹⁷

The Commission successfully shepherded, with the help of Mary Glassman from CT Voices for Children and Dave Chapman and Don Phillips of the CBA, House Bill 7238, through the session. This bill co-sponsored by Senator Edwin Gomes, Representative DebraLee Hovey and Representative Bruce Morris and codified as P.A. 07-159, provides technical amendments that will permit COCP to seek outside funding for its initiatives and to encourage a multi-disciplinary approach to representation through its contracts.

The act also amends existing statutes in order to clarify who is entitled to representation, thereby, eliminating expenditures for non-entitled individuals, and to provide that attorneys providing AMC or GAL representation for children in Family Matters must be certified by the COCP.

Fiscal Year 2009 Audit

To ensure compliance with state auditing rules, the CCPA requested a meeting with a representative of the State of Connecticut Auditors of Public Accounts. The CCPA and the Commission's Financial Program Manager met with Administrative Auditor, Patricia Wilson, in the Fall of 2006. The discussion included a review of the policies and forms that the COCP had been creating to ensure the new agency was correctly implementing budget management policies. Ms. Wilson instructed the CCPA to produce written policies outlining our office's spending and procurement needs and procedures. The COCP is in the process of finalizing all the relevant policies. The COCP is anticipating its first audit in FY 09 by the Office of the State Auditors.

COCP's FISCAL YEAR EXPENDITURES

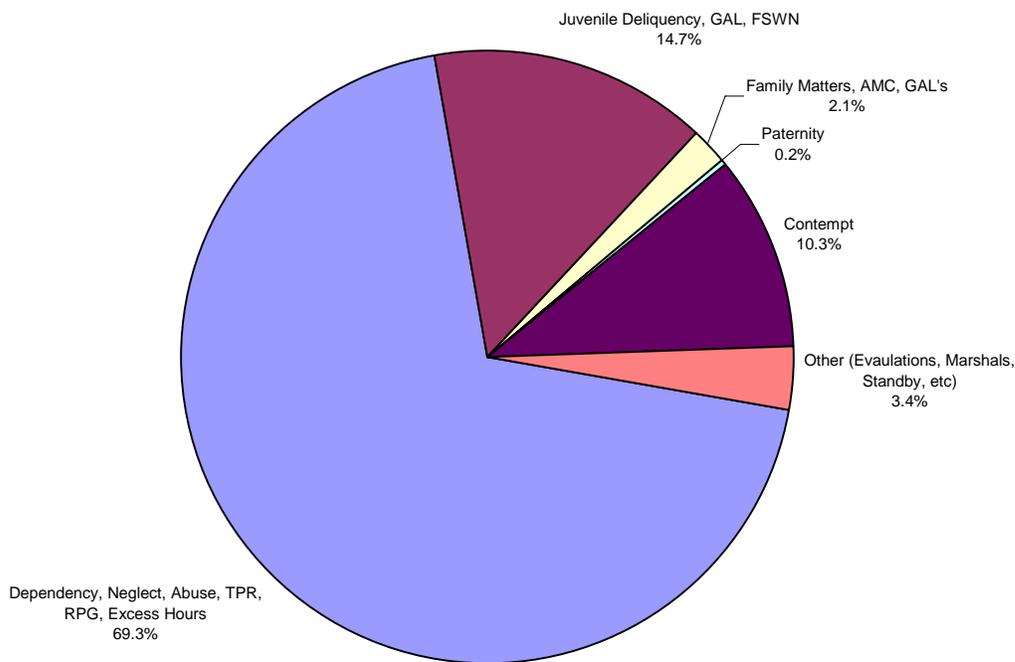
The following schedules summarize the COCP's Fiscal Year 2007 expenditures:

¹⁷ See fn 7, Appendix I

Attorney Services

Expenditures for attorneys in Juvenile Matters neglect and abuse proceedings, attorneys and GAL's for Delinquency and FWSN cases, Attorneys for Minor Children "AMC's" and GAL's in Family Matters divorce and custody proceedings, and attorneys for indigent contemnors and putative fathers in Magistrate Support court, and other litigation costs totaled \$7,722,341.00.

FY 07 Expended by Contract Attorney Case Types and Related Expenses Assigned by CoCP



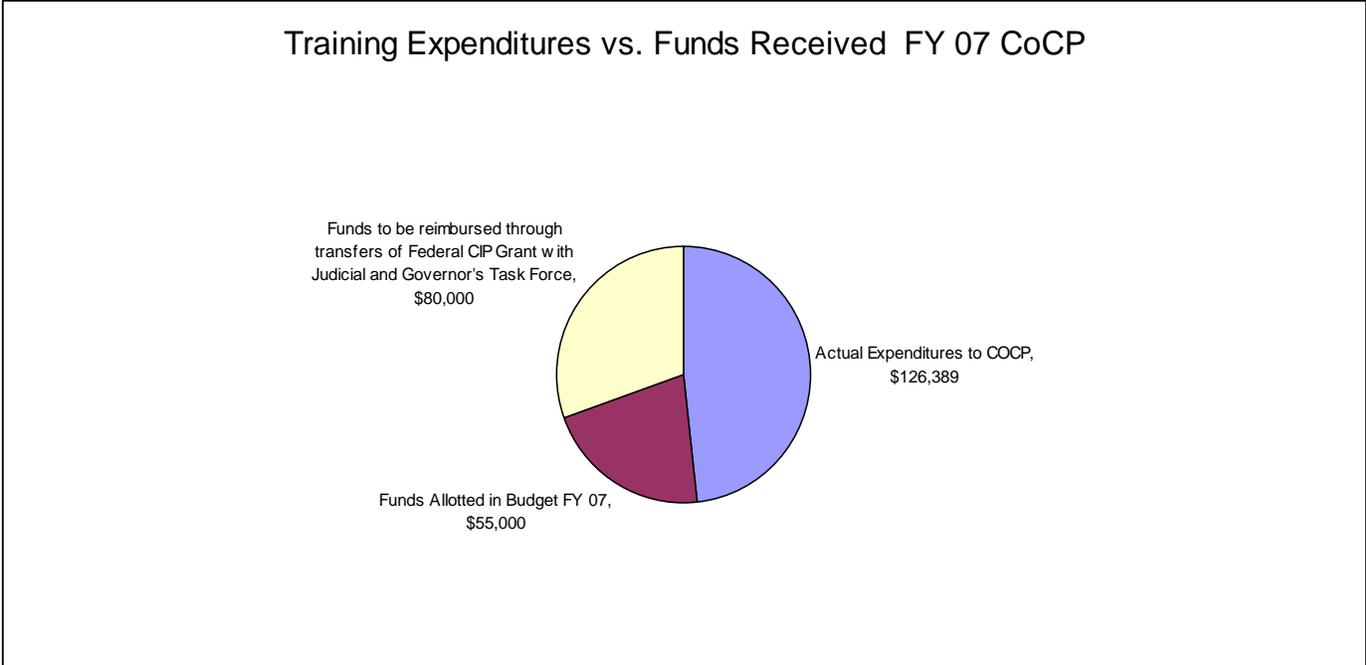
TOTAL \$7,722,341

Administrative and Operating Costs

Administrative and operating costs of the COCP totaled \$606,791.00 for FY 2007. These expenses included personnel costs, CCPA travel to Juvenile Courts and other required meetings and trainings, and COCP staff travel to temporary work site and trainings.

Training

The COCP spent \$126,389.00 on providing pre-service training to all new attorneys, in service training to all juvenile contract attorneys, scholarships to national child welfare conferences and a three day in state Child Advocacy Trial Skills training presented by the National Institute of Trial Advocacy. The majority of funding was secured through grants available through the GTFJAC and the CIP Training Grant for a total of \$80,000.00. The total amount paid from COCP’s budget was \$46,389.00



GOALS FOR UPCOMING FISCAL YEAR 2007/2008

The COCP is pleased with the progress achieved during its first year of operation and intends to maintain and improve upon its accomplishments. The following strategies and goals for the upcoming year will enable us to continue to advocate for children and enhance the quality of legal representation for children and parents.

Complete Certification:

- Ensure approval of NACC's application as authorized certification entity.
- Certify at least 50 attorneys as Child Welfare Specialists by January 2009.

Increase Compensation:

- Compensate certified attorneys at \$100.00 per hour.
- Increase hourly rate for all attorneys to \$60.00 per hour.
- Compensate attorneys for time spent in training.

Pilot Project/Case Management-Information System:

- Secure Funding for Pilot Project for Model Child Protection Office.
- Have database in place for training and refining by January 2008.
- Have model office and Case Management-Information Database operating by September 2008.

Caseloads:

- Reduce all caseloads below 100 cases.

Training:

- Continue program/increase attendance.
- Increase mandatory training for non-legal topics.

Attorney Assessment:

- CCPA to schedule court observation regularly.
- CCPA to advocate for 3 Regional Staff Attorney Positions.
- Establish case file audit procedure.

Family Matters:

- Implement Mandatory Training for Certified Family Matters AMC's and GAL's.
- Establish application process for Certification.
- Advocate with OPM for position of Director of Family Matters Contempt and Paternity representation.
- Provide training to Contempt and Paternity Attorneys.
- Expand Magistrate Support Court Advisory Board.

Appellate Advocacy Program:

- Complete contract process with approved appellate applicants.
- Meet with Appellate Contract Attorneys; set up Appellate Advocacy Committee; establish protocol for consultation and appeal process.
- Set up appellate training and/or provide scholarships to existing seminars.
- Put appeal filing and procedures information on website.

Improve Website:

- Create listserv for Juvenile Contract Attorneys.
- Create Case Success of the Month feature.
- Implement Case Management/Information System.
- Make CCPA site more prominent.

Research Resource:

- Set up Research library with Lexis access in office.
- Provide research support to attorneys.
- Explore costs of Lexis access for all contract attorneys via web-based CM/I System.



Substitute House Bill No. 7238

Public Act No. 07-159

AN ACT CONCERNING THE COMMISSION ON CHILD PROTECTION AND THE CHIEF CHILD PROTECTION ATTORNEY. (In Pertinent Part)

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 2. Section 46b-123c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) There is established a Commission on Child Protection that shall consist of eleven members appointed as follows: (1) The Chief Justice of the Supreme Court shall appoint two judges of the Superior Court, or a judge of the Superior Court and a retired judge of the Superior Court; (2) the speaker of the House of Representatives, the president pro tempore of the Senate, the majority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives and the minority leader of the Senate shall each appoint one member; and (3) the Governor shall appoint three members, one of whom shall serve as chairperson.

(b) Each member of the commission shall serve for a term of three years and until the appointment and qualification of his or her successor. No more than three of the members, other than the chairperson, may be members of the same political party. Of the four nonjudicial members, other than the chairperson, at least two shall not be members of the bar of any state.

(c) If any vacancy occurs on the commission, the appointing authority having the power to make the initial appointment under this section shall appoint a person for the unexpired term in accordance with the provisions of this section.

(d) The members of the commission shall serve without compensation but shall be reimbursed for actual expenses incurred while engaged in the duties of the

commission. The members of the commission shall not be employed in any other position under this section or section 46b-123d, as amended by this act.

(e) The commission may adopt such rules as it deems necessary for the conduct of its internal affairs.

(f) The commission shall be responsible for carrying out the purposes of this section and section 46b-123d, as amended by this act, and shall appoint a Chief Child Protection Attorney, who shall serve at the pleasure of the commission and whose compensation shall be fixed by the commission.

(g) The commission shall be within the Division of Public Defender Services for administrative purposes only.

(h) The commission may accept funds from the federal government, other state agencies and private organizations.

(i) The commission may establish such requirements for the submission of billing statements, receipts and other documentation by not-for-profit legal services agencies, individual attorneys and private law firms as the commission deems necessary in furnishing compensation to such agencies, attorneys and law firms for providing legal services and serving as guardians ad litem pursuant to subdivision (1) of subsection (a) of section 46b-123d, as amended by this act.

Sec. 3. Section 46b-123d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) The Chief Child Protection Attorney appointed under section 46b-123c, as amended by this act, shall:

(1) Establish a system to provide (A) legal services and guardians ad litem to children, youths and indigent respondents in family relations matters in which the state has been ordered to pay the cost of such legal services and guardians ad litem, provided legal services shall be provided to indigent respondents pursuant to this subparagraph only in paternity proceedings and contempt proceedings, and (B) legal services and guardians ad litem to children, youths and indigent legal parties in proceedings before the superior court for juvenile matters, other than legal services for children in delinquency matters. To carry out the requirements of this section, the Chief Child Protection Attorney may contract with (i) appropriate not-for-profit legal services agencies, and (ii) individual lawyers for the delivery of legal services to represent children and indigent legal parties in such proceedings;

(2) Establish a system to ensure that attorneys providing legal services pursuant to this section are assigned to cases in a manner that will avoid conflicts of interest, as defined by the Rules of Professional Conduct; and

(3) Establish training, practice and caseload standards for the representation of children, youths, indigent respondents and indigent legal parties pursuant to subdivision (1) of this subsection. Such standards shall apply to each attorney who represents children, youths, indigent respondents or indigent legal parties pursuant to this section and shall be designed to ensure a high quality of legal representation. The training standards for attorneys required by this subdivision shall be designed to ensure proficiency in the procedural and substantive law related to such matters and to establish a minimum level of proficiency in relevant subject areas, including, but not limited to, family violence, child development, behavioral health, educational disabilities and cultural competence.

(b) Any contract entered into pursuant to subdivision (1) of subsection (a) of this section may include terms encouraging or requiring the use of a multidisciplinary agency model of legal representation.

Sec. 4. Section 46b-123e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(a) The judicial authority before whom a family relations matter described in subparagraph (A) of subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, is pending shall determine eligibility for counsel for a child or youth and the parents or guardian of a child or youth if they are unable to afford counsel. Upon a finding that a party is unable to afford counsel, the judicial authority shall appoint an attorney to provide representation from a list of qualified attorneys provided by the Chief Child Protection Attorney.

(b) The judicial authority before whom a juvenile matter described in subparagraph (B) of subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, is pending shall notify the Chief Child Protection Attorney who shall assign an attorney to represent the child or youth. The judicial authority shall determine eligibility for counsel for the parents or guardian of the child or youth if such parents or guardian is unable to afford counsel. Upon a finding that such parents or guardian is unable to afford counsel, the judicial authority shall notify the Chief Child Protection Attorney of such finding, and the Chief Child Protection Attorney shall assign an attorney to provide representation.

(c) For the purposes of determining eligibility for appointment of counsel pursuant to subsection (a) or (b) of this section, the judicial authority shall cause the parents or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the parents' or guardian's liabilities and assets, income and sources thereof, and such other information as the Commission on Child Protection shall designate and require on forms adopted by said commission.

(d) The payment of any attorney who was appointed prior to July 1, 2006, to represent a child or indigent parent in any case described in subdivision (1) of subsection (a) of section 46b-123d, as amended by this act, who continues to represent such child or parent after July 1, 2006, shall be processed through the Commission on Child Protection and paid at the rate that was in effect at the time of such appointment.

Approved June 25, 2007

**Recommendations to the
Commission on Child Protection and
the Chief Child Protection Attorney**

**COMMITTEE ON THE QUALITY OF REPRESENTATION OF CHILDREN AND
FAMILIES**

June, 2006

STATE OF CONNECTICUT

**GOVERNOR'S TASK FORCE ON
JUSTICE FOR ABUSED CHILDREN**

PURPOSE:

The Committee on the Quality of Representation for Children and their Families was established by the Governor's Task Force on Justice for Abused Children in December, 2005. The Committee was charged by the Task Force with making recommendations to the new Commission on Child Protection, established by the Connecticut General Assembly in 2005. (P.A. 05-03) The Chief Child Protection Attorney has been statutorily mandated to improve the provision of services to children and families by:

(1) contracting with not-for-profit legal services agencies and individual lawyers for the delivery of legal services to represent children and indigent parents in such proceedings and to serve as guardians-ad-litem as necessary; (2) providing case management; (3) providing initial and in-service training for appointed attorneys; (4) establishing training, practice and caseload standards; (5) recruiting, hiring and supervising agency staff; (6) conducting research and developing proposals for adopting and implementing effective advocacy programs in child protection proceedings; and (7) preparing annual budgets and advocating for sufficient funding to assure adequate training for and competent representation by all court-appointed counsel in such proceedings¹

This is a daunting task but one that is of critical importance to the children and families who are serviced by our child protection system. This Committee has investigated how other jurisdictions have dealt with the issues of court appointed counsel. Participants have extensive and diverse experience in the child protection courts in Connecticut. Based on our research and experience we believe that this report recommends procedures and practices that will assist the new Commission and the new Chief Child Protection Attorney as they create a new and better way of providing legal services for children and families in child protection matters.

MEMBERSHIP

The Committee on the Quality of Representation of Children and Families consisted of practitioners with extensive experience representing children and families, including lawyers in private practice and those affiliated with non profit agencies. The non profits represented on the Committee provide direct representation to children and families. There were also representatives from the Department of Children and Families, the Attorney General's Office, the Judicial Branch, the Office of the Chief State's Attorney and the Office of the Chief Public Defender. Overall, the group represented all aspects of the practice in juvenile

¹ Commission on Public Defender Services, Office of the Public Defender website(www.ocpd.state.ct.us), job description for the Chief Child Protection Attorney

court. A list of those who participated in this Committee is attached as Appendix 1.

STRUCTURE OF CURRENT SERVICE DELIVERY SYSTEM

The Department of Children and Families is responsible for bringing most of the child abuse and neglect actions in Connecticut.² Cases are litigated in Superior Court, Juvenile Matters by Assistant Attorneys General.³ The Judicial Branch currently administers representation of children and families in child protection matters. Children are automatically appointed counsel when a child protection action is filed.⁴ Parents can apply for counsel and should meet financial eligibility guidelines tied to the federal poverty level.⁵ Children are appointed separate guardians ad litem when deemed necessary by the court.⁶ Lawyers wishing to be considered for court appointed work should file an application with the clerk of the court. Contracts are awarded by the Judicial Branch in each judicial district. Lawyers may be awarded contracts in multiple jurisdictions. The contract lawyers are required to accept appointments for child protection cases, Family with Service Needs cases and delinquency cases where the family does not qualify for Public Defender services yet the court wishes to provide counsel for the child or the family.

Lawyers are paid \$350 for the first 30 hours of work on an individual case. This breaks down to \$11.67 per billable hour. Contract lawyers need permission, generally from the judge presiding over the case, to bill for over 30 hours of work. The current contract language indicates that “with prior court approval, additional payment of \$40 per hour may be billed in accordance with judicial policy”⁷. Lawyers should request approval in 10 hour increments. There are restrictions on what type of work can be billed. Collateral expenses such as expert witnesses and subpoena service should be approved by the court⁸ and are subject to opposition from opposing counsel.

² C.G.S. §46b-129(a)

³ C.G.S. §17a-47 and C.G.S. §46b-121b

⁴ C.G.S. §46b-129(d); C.G.S. 46b-136

⁵ C.G.S. §46b-129(d); C.G.S. 46b-136

⁶ C.G.S. 46b-136

⁷ Judicial Branch, Contract for Court Appointments in Child Protection Matters, 2005

⁸ Connecticut Practice Book §32a-2(c)

Contract lawyers who file an appeal on behalf of their client are paid an hourly rate of \$40. However, if the appeal is filed by another party, the lawyers must continue to represent the client under the original appointment. The contract does not guarantee payment, but only makes lawyers eligible for payment at \$40 per hour if the appellate representation exceeds 30 hours. Eligibility is determined by the judge. Compensation for appeals does not include funding for copies or transcripts.

SUMMARY OF ISSUES/PROBLEMS NEEDING ATTENTION

The current system imposes no minimum experience level for contract eligibility and no ongoing training requirement. Training is offered by legal services providers or private nonprofits such as the Center for Children's Advocacy but attendance is strictly voluntary and the workshops are not easily accessible to all areas of the state. While there are practice guidelines in the contract, historically there has been little supervision of the contracted lawyers. Individual judges can express their approval or disapproval of lawyers and can request that lawyers be taken off contract lists for poor performance. However, the low rates of pay for court appointed work is a factor that limits the number of lawyers who are willing to accept the work. This often makes judges reluctant to remove lawyers from the contract lists.

A federal lawsuit was filed in 2004 by an association of lawyers in private practice in the child protection field⁹. While the lawsuit was later dismissed on technical grounds, it alleged that the rights of the children and families involved in child protection cases were being violated because of inadequate representation by court appointed counsel.¹⁰ The lawsuit claimed that the lawyers were poorly trained and that the pay system discouraged attorneys from pursuing vigorous and zealous defense of their clients. The lawyers involved in the suit also expressed concern that the level of judicial oversight in the appointment of counsel and the approving of collateral expenses created a conflict of interest, particularly in a state where there may be only one or two judges hearing child protection cases in each jurisdiction. In 2005, the General Assembly passed P.A. 05-03, creating the Child Protection Commission and the Chief Child Protection Attorney to address problems with the system of representation of children and families in the child protection system.

⁹ The association was named the Juvenile Matters Trial Lawyers Association

¹⁰ The U.S. District Court for the District of Connecticut dismissed the suit in 2005, finding that the Association had no standing to bring the action.

RECOMMENDATIONS FOR THE CHIEF CHILD PROTECTION ATTORNEY

The Committee on the Quality of Representation for Children and Families agreed that there are many dedicated and talented lawyers providing service to the Connecticut children and families in child protection proceedings. The current delivery system however, fails to provide adequate supervision or training for the lawyers accepting appointments in child protection cases. This often leaves the most needy and vulnerable individuals in our court system with uneven or inadequate representation. The Committee offers the Governor's Task Force on Justice for Abused Children the following recommendations for the Commission on Child Protection.

The Commission on Child Protection should maintain an infrastructure of contracted attorneys to provide representation to parties in child protection matters.

The group considered two models: an agency model similar to the statewide public defender system and a system of contracted service providers similar in structure to the system currently used by the Judicial Branch, but with centralized supervision and dramatically increased resources. These resources would include better pay, training and access to expert witnesses. After researching several examples from across the nation, the group recommends that the Commission on Child Protection continue to provide service through a network of contracted attorneys and legal services agencies.

Agency Models

Nationally, there are several agency models in practice. In New York City, the Legal Aid Society provides representation to children in both delinquency and neglect cases through their Juvenile Rights Division. Once a child enters the juvenile system, he or she is assigned a lawyer that will handle all child protection, family court or delinquency cases. This is an unusual approach and one that could be fraught with conflict, since in Connecticut, the lawyer for the child on the protection side holds a dual role as guardian litem in many cases. This would be inappropriate for delinquency cases, where the lawyer is expected to act in a more traditional defender role. The New York Legal Aid Juvenile Division is staffed with social workers, family violence experts and investigators and appears to be heavily funded by large, private foundations.¹¹

The San Diego Public Defender's System has a Dependency section that represents all children in protection matters. These lawyers do not handle criminal or delinquency cases. The San Diego Public Defender operates an Alternate Public Defender that represents parents and they maintain a list of

¹¹ Legal Aid Society Website(www.legal-aid.org), Juvenile Rights Division page, March 17, 2006

contract lawyers for when there is a conflict of interest. Their Dependency Section had 17 lawyers 14 investigators and social workers. They carried about 200 cases per attorney ¹²

Colorado created the Office of the Child Representative in 2000. This office exclusively oversees lawyers who contract to act as guardians ad litem and who represent the child's best interest. This office does not represent parents and appears to not provide traditional advocates for the child.

Issues for Connecticut

This Committee believes that creating a new agency, staffed with state employees who would provide representation to children and families is not the right model for Connecticut at this time. There are inherent ethical problems with one statewide agency providing representation to parties with divergent interests. Child protection cases often require the appointment of at least three different attorneys: a lawyer for the child, who advocates for what the child wants, a lawyer for each parent, who defends the parent on the charge of abuse or neglect and a guardian *ad litem*, who represents the best interest of the child. The Rules of Professional Conduct governing conflicts of interest do not allow one "law firm" or agency to provide representation for competing parties.¹³ Even if Connecticut created such a statewide agency, it could only represent one party. In order to avoid the conflict of interest that currently exists with the Judicial Branch, a second agency would need to be created to provide representation to parents or to maintain a list of contract attorneys able to handle conflicts of interest, either to represent parents, or act as guardians *ad litem*.

The overhead costs of starting an agency would be staggering. A statewide child protection representation agency would need to hire full time staff to cover cases in all thirteen juvenile courts and the child protection session in Middletown. None of the current facilities have space to accommodate new agency staff. A similar structure would be needed for parent's lawyers or more funds would need to be allocated to maintain the contract lists. The pay rates for conflict cases would need to be commensurate with what the employees of the agency were being paid. The cost to outfit offices statewide with equipment and support staff would be prohibitively expensive.

The resources necessary to create new agencies would be better directed into improving the quality of services provided through the current system of contracted providers. Money should not be spent to create new bureaucracy and infrastructure. Funds should be used to directly improve lawyers' ability to effectively represent the clients, through a significant increase in the pay rates, training programs and access to expert assistance. The contracted lawyers

¹² The Spangenberg Report, Volume III, Issue 1 p. 3 (1996)

¹³Rule 1.10 note 12, ABA Model Rules of Professional Conduct, (2002)

should have access to training, experts, appellate advocates and other services that are currently available to the state actors in the child protection system.

RECOMMENDATIONS FOR A NEW SYSTEM IN CONNECTICUT

The group agreed that Connecticut should continue to provide service to children and families in the child protection system through a network of contracted providers. However, major changes must be made in the way this network is supervised and supported if the quality of services is to be improved. Based on the statutorily described responsibilities of the Chief Child Protection Attorney, we recommend the following:

I. The CCPA should advocate for higher pay for court appointed counsel and should make the payment process easier.

The CCPA should develop a new pay structure that adequately compensates counsel for the time they spend on a case. The majority of the committee recommends that the CCPA should institute a system of hourly billing in all contract cases and should advocate for sufficient funding to pay a reasonable hourly rate. This Committee recommends that the contractual hourly billing rates be based on the lawyer's years in practice in Juvenile Matters and suggests the following scale:

0-4 year experience	\$55/hour
5-9 years experience.....	\$75/hour
10 or more years experience.....	\$90/hour

These rates represent a substantial increase from the current rates. Clearly the current rates are inadequate. The new system will put increased expectations on the court appointed child protection lawyers and they should be paid for their work. Attracting bilingual lawyers and people of color should be a priority for the CCPA. Reasonable pay should make court appointed contract work more attractive to a more diverse group of attorneys.

The majority of the committee felt that an hourly billing system will be more efficient and provide better oversight. Attorneys will bill only for work actually done. This will save money in less complex cases where the lawyers were being paid \$350 for doing three hours of work, such as some Family with Service Needs cases. Hourly payment will encourage lawyers to provide vigorous representation since they will be assured fair payment for work done. Third, it will allow for more stringent oversight of the attorneys and their work. Hourly billing requires the attorney to itemize the work done in the hour billed. The CCPA will be able to monitor the time attorneys put in on a case. If an attorney consistently bills an excessive amount or even less than seems reasonable, the CCPA can make inquiry as to why. The legal industry standard is to bill and be paid at an hourly rate. The majority of the committee felt that the

court appointed child protection lawyers should be paid according to this industry standard.

The invoice and audit process should also be streamlined. The current system of payment is difficult to navigate and actually discourages attorneys from doing the extra work necessary for vigorous representation. Arduous paperwork leads lawyers to put in extra hours and not bill the courts for it. While this is a sign of dedicated counsel, it also leads to burn out and causes the system to lose experienced advocates. The payment system should be user friendly. The CCPA should explore electronic billing and should work with the current providers to create a fair and efficient invoice system.

The Committee was not unanimous in recommending a switch to hourly contract billing. There was concern that an hourly billing system would lead to an unwieldy and unfeasible amount of paperwork for the CCPA. Already difficult auditing would need to be substantially increased, which would also increase the overall cost of providing service to children and families. Finally, there was concern based on recent specific experiences that hourly billing could lead to increased fraud. This concern was not shared by all the members of the Committee but is something that should be further investigated by the CCPA. The CCPA may inquire as to how other state agencies or other jurisdictions handle contracts for legal services. The overwhelming majority of this committee was in favor of an hourly billing system.

II. The Chief Child Protection Attorney should serve as the central administrator for court appointed legal services in child protection cases.

The Chief Child Protection Attorney should be responsible for the assignment of counsel in child protection matters.

Under the current system, lawyers for children or parents are appointed by the court. After a judicial finding of eligibility, the Chief Child Protection Attorney (hereinafter CCPA) should be responsible for appointing counsel for parents, children and guardians ad litem. The court, charged with acting in the best interest of the children and the parties, should not be required to monitor the caseloads and conflicts of the attorneys who appear before it. As fact finder, the court should be able to stay conflict free. Vesting the appointment powers in one central location will ensure that lawyers feel free to act zealously and in their client's interest. The CCPA should be responsible for assigning attorneys for the child, for the parents once the court finds them eligible and as guardians *ad litem* for the child when the court so orders. Non attorney guardians *ad litem* should continue to be appointed by the court when the court determines it is appropriate.

Centralizing the assignments will require the creation of an administrative structure that can allocate a lawyer quickly or even immediately when needed. Courts will sometimes need to make emergency appointments from the bench and the CCPA should work with the Judicial Branch to issue guidelines for these types of appointments. The Judicial Branch currently uses a system of standby counsel, contract lawyers who are paid a daily rate to staff OTC dockets. The CCPA should work with the Judicial Branch to adapt the current model of standby counsel for emergency appointments.

For non-emergency cases, the CCPA should establish a uniform appointment and notification procedure for all courts. We are assuming that eligibility applications will continue to be given out in the clerk's office and that courts will grant a request for appointment of counsel and return the file to the clerk. The clerks of each court will notify the CCPA that a lawyer has been appointed and provide the necessary documents. The CCPA will assign a lawyer and instruct that lawyer to retrieve the paperwork from the clerk. The CCPA should assign staff to act as an emergency contact person if a lawyer fails to appear for a hearing.

III. The Chief Child Protection Attorney should be responsible for the improving the quality of representation for children and families.

1. The CCPA should assess the quality of current services

The Office of the Chief Child Protection Attorney was created, in large part, to address concerns about the quality of representation being provided to children in the child protection courts. Having the CCPA act as a central clearinghouse for all appointments of counsel in child protection cases will provide both oversight and quality control. The CCPA should first determine what the actual standard for quality representation is statewide. When the State of Colorado created the Office of the Child Representative in 2000, the Director implemented a statewide assessment of services. The Connecticut Chief Child Protection Attorney should conduct such an assessment. This can be accomplished by scheduling individual meetings with the judges and group meetings with the court staff and local attorneys. These meetings would assist the CCPA in determining the quality of the current services and would allow for an evaluation of what training and resources are most immediately necessary. The CCPA should consult with the Judicial Branch, which can provide input on what historical needs and strengths exist in individual jurisdictions and statewide. The CCPA could work with the Chief Administrative Judge for Juvenile Matters to determine which judicial districts should be addressed first.

2. The CCPA should set up a system to continuously monitor the quality of representation for children and families.

The current system does not provide an effective mechanism for supervising the assigned lawyers. This supervision is critical to insuring that children and families receive the highest quality representation. The CCPA should assign staff to regions of the state. The staff should visit the local courts on a regular schedule and should meet with the judges, court staff and contract lawyers. The CCPA staff should be allowed to observe court proceedings to gain an appreciation for the local customs and the standard of practice in the area. Legislative change may be necessary to ensure that the CCPA representatives can observe court proceedings.

This supervision will allow the CCPA to monitor the quality of representation in the judicial districts. In addition to providing quality control, the CCPA staff will be able to tailor training to the specific needs of each jurisdiction. Regular visits should foster better communication and can work to resolve problems between the lawyers and the courts in a fair and efficient manner. Having a single contact person will give the court and the clients a central place to call with a concern or a problem and the CCPA should establish procedures to deal with complaints in a speedy and efficient manner.

3. The CCPA should establish qualifications and practice standards for lawyers being awarded contracts in Child Protection Matters

The CCPA should set qualifications and standards for attorneys applying for contract work. For those with little or no experience, a basic course in child protection representation should be required before a contract can be awarded. This should be followed by mandatory quarterly trainings during the first contract year. The CCPA should also establish a guide to representation in child protection matters that includes a description of each contracted position (lawyer for the child, lawyer for the parent, guardian *ad litem*). It should also set out minimum expectations for practice in each case, including specific recommendations for:

1. Appropriate visitation with client prior to a court appearance;
2. Responsibilities regarding their ongoing obligation to keep client informed of the process;
3. Individualized expectations for representing parents and children;
4. Visitation expectations when the client is a pre-verbal child;
5. Attendance at court and related meetings and hearings;
6. Expectations for lawyer's contact with clients during a commitment to DCF.

The CCPA should use as a reference the report of the Juvenile Matters Discussion Group *Legal Representation of Children and Parents in Juvenile Matters Discussion Group, Findings and Recommendations*, State of

Connecticut Judicial Branch October, 2001 and the ABA Standards for Practice for lawyers who Represent Children in Abuse and Neglect Cases, adopted by the ABA House of Delegates, February 25, 1996.

4. The CCPA should establish and monitor caseload goals for contracted attorneys

The CCPA will need to monitor the caseloads of the contracted attorneys. Clearly, many factors will affect the number of cases an individual lawyer can effectively handle in a contract year. The National Association of Counsel for Children (NACC) recommends that individual lawyers not handle more than 100 cases at a time¹⁴. This is the same standard recommended by the American Bar Association. Because most of the parties in child protection cases cannot afford privately retained counsel, the majority of child protection practice is done by the contract lawyers at the state rates. Strict limitations on the number of cases a lawyer can handle, without considering the lawyer's expertise or the types of cases he or she has pending, may discourage lawyers in private practice from specializing in child protection work.

The CCPA should establish caseload goals. The 100 case limit should be used as a guide. The calculation of caseload limitations should also include the experience and ability of individual lawyers and the geographic accessibility of the courts where they seek contracts. The Connecticut Public Defender's Office also has published caseload goals for lawyers in their various offices. While they are not directly applicable to child protection work they can serve as another reference. These goals should set a limit on the number of cases and the number of venues that an individual lawyer can contract for in the first two contract years. The CCPA can set up a procedure to waive these limits if an experienced lawyer wishes to take on a new contract.

IV. The CCPA should be responsible for recruiting and contracting with lawyers to provide service to children and families in the child protection courts. This process should include efforts to increase the compensation for the attorneys.

The CCPA should recruit more lawyers to represent children and families in child protection matters.

As the central clearinghouse, the Office of the CCPA can recruit new lawyers and cultivate relationships with law firms and law schools to enhance the practice in the juvenile courts. It is important to continue to expand the number of lawyers who are willing and able to practice in the child protection courts. The CCPA should make efforts to encourage lawyers and firms to develop expertise

¹⁴ *NACC Recommendations for Representation of Children in Abuse and Neglect Cases*, National Association of Counsel for Children, 2001; *ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases*, §§L-1, L-2;

in this area. Area law schools should be encouraged to develop clinical programs in child protection and juvenile matters. Trainings offered by the CCPA should be widely advertised and open to as many interested lawyers as possible. In addition, the CCPA should work with current providers and non-profit organizations to establish or expand on mentoring programs for new lawyers or clinical law students wishing to gain experience in the child protection practice areas.

V. The Chief Child Protection Attorney will establish and implement a training curriculum and baseline qualifications for all contract lawyers. The curriculum should include a formal training process and access to available CLE and other trainings.

1. The CCPA should establish a basic training requirement for all lawyers seeking contract appointments for child protection work

In testimony to the 106th Congress, the ABA's Mark Hardin said:
"Child protection law is a very specialized and demanding area of practice. It remains a little known area of the law, and few attorneys appreciate its challenges and complexity. Child protection cases involve a unique series of hearings each with specific purposes... There are also many legal issues unique to child protection law, including special issues of evidence, constitutional law, administrative law, and procedure. Likewise, there are many non-legal issues attorneys should understand such as child development, substance abuse, and basic principles of child abuse and medicine."¹⁵

It is critical that the Child Protection Commission allocate resources for training contract lawyers. A basic training curriculum should be established for new lawyers or those with little experience in child protection matters. The CCPA should collaborate with agencies that already offer this type of training and should include a joint effort to publish a yearly update of relevant case law. Topics should include but not be limited to:

1. The basic rights of each party;
2. Procedure and practice in the juvenile court;
3. DCF administrative procedure;
4. Child development issues;
5. Client counseling techniques specific to representation of children and parents;
6. Legal Interviewing and legal counseling techniques specific to children;
7. Provision of services to children diagnosed with mental,

¹⁵ Testimony of Mark Hardin, Director, American Bar Association Center on Children and the Law, 106th Congress

- developmental or physical disabilities;
- 8. Federal requirements related to child abuse and neglect;
- 9. Service interventions for addressing abuse and neglect;
- 10. The special role of the guardian *ad litem*.

2. The CCPA should establish an ongoing training curriculum and should set minimum requirements for all lawyers accepting court appointments in child protection matters.

In addition to the basic training, the CCPA should offer regular trainings to all lawyers involved in contract work. This training should focus on issues affecting the practice, such as new developments in the law, mental health evaluations, changes in available services to families through DCF, domestic violence, permanency planning and the effects of trauma on child development. Other specific topics should be identified by the CCPA and implemented as necessary. Training should be provided locally or in central, easily accessible locations. The CCPA should consider scheduling trainings on days when court operations are suspended and may wish to coordinate with the Connecticut Bar Association's annual meetings.

The CCPA should request money in the agency budget to fund scholarships for lawyers to attend trainings offered by other providers. Trainings such as the Trial Advocacy for Civil Trial Protection Attorneys offered by the American Prosecutors Research Institute and those offered by NAAC should be offered to contract lawyers. All lawyers who accept contract work should be required to attend a minimum of one relevant training per contract year. The CCPA should consider establishing a statewide website and listserv where child protection lawyers could access resources and consult with one another.

VI. The Chief Child Protection Attorney should obtain funding and administer support services for court appointed attorneys to enhance their representation of children and families.

1. The Chief Child Protection Attorney should maintain a list of experts and make the list available to the contract lawyers as resources in the preparation of their case.

Lawyers representing children and families should have access to experts such as psychologists, psychiatrists, pediatricians, social workers and investigators that will assist them in developing their case. Such experts are now commonly used by DCF when litigating abuse and neglect cases. With input from the court and local attorneys, the CCPA should maintain a list of experts and their curriculum vitae. The CCPA should attempt to make available experts on child development, family preservation, trauma impact, substance abuse and other relevant and appropriate topics. Investigators should be available to

lawyers needing to contest allegations in litigated cases. There should be a process for attorneys to give input on the quality of the services provided. A bank of experts and comments by consumers should be maintained at the Office of the CCPA.

2. The Chief Child Protection Attorney should be responsible for approving requests for funding experts from the contract lawyers

Under the current system, if an appointed lawyer wants expert assistance on a case, he or she should petition the court for permission to hire an expert and for the funds to pay the expert. This is a clear conflict of interest, since the judge responsible for considering this request is also the fact finder in the relevant case. The CCPA should be the body that approves requests for expert assistance for court appointed lawyers. The CCPA should include a specific line item request for funding expert witnesses in its budgetary request to the General Assembly and should maintain a budget for extraordinary requests. Objective criteria for allowing the hiring of experts should be established and approved by the Commission on Child Protection. An administrative appeal process should also be implemented, so attorneys can contest the denial of funds.

The Child Protection Commission should attempt to negotiate reasonable rates and fees with commonly used providers, particularly mental health evaluators and medical doctors. After the first year, the CCPA should be able to assess how often requests are made and could contract with providers for flat rate evaluations instead of paying hourly rates. The CCPA could also negotiate for priority in scheduling evaluations with these providers. This could expedite the process and result in a cost savings for the agency. The CCPA should consult with other state agencies such as the Department of Children and Families, Mental Health and Addiction Services, Court Support Services Division of the Judicial Branch and the Office of the Chief Public Defender for advice and information on how these agencies provide access to experts and how the services are funded.

3. The Chief Child Protection Attorney should make arrangements for service of subpoenas for the contract lawyers, through the OCCPA.

Lawyers doing contracted child protection work frequently complain about the amount of time spent serving subpoenas in preparation for trial. They have a difficult time finding process servers because many of them require payment at the time of service. The lawyer should pay out of pocket, then hope that the court authorizes the money, then wait until the payment is processed. This is too much time wasted on administrative duties that could be spent servicing children and families. The CCPA should contract with parties that will serve subpoenas statewide and should provide a referral service for the contract attorneys.¹⁶

¹⁶ This may require a change in C.P.B. §32a-2(c), which requires pro se indigent litigants and court appointed counsel; to obtain judicial approval to both issue the subpoena and seek reimbursement of expenses.

VII. CONCLUSION

The CCPA is charged with providing quality legal representation for parties involved with one of the most challenging areas of the law. Child protections attorneys should be proficient in many areas. Expertise is required in areas such as child development, mental health, substance abuse, domestic violence, education law, availability of services and poverty issues as well as child protection law. Child protection cases are often complex and lengthy, some lasting years. Attorneys representing parties in child protections matters face the Department of Children and Families DCF and a nearly \$640 million dollar budget that includes bountiful funding for training, experts and trial preparation. In response to these daunting issues, the Chief Child Protection Attorney should insure that initial and ongoing training, caseload limits, direct oversight of contract attorneys, availability of supports including but not limited to experts, investigators administrative staff and subpoena servers as well as a pay scale that fairly compensates contract attorneys for the actual work performed are all considered in setting up and administering the provision of services required by the statute creating the CCPA. As the product of experienced practitioners in the child protection field, these recommendations are intended to assist and guide the work of the CCPA as she attempts to establish a child protection system that can serve as a model for other jurisdictions.

AGREEMENT

**LEGAL REPRESENTATION OF CHILDREN AND INDIGENT
LEGAL PARTIES IN JUVENILE MATTERS PROCEEDINGS**

HOURLY RATE CONTRACT

NAME OF CONTRACTOR:

VENDOR FEIN/SSN: JURIS NUMBER:

SUPERIOR COURT, JUVENILE MATTERS AT: Case Limit #

SECTION 1 - SCOPE OF SERVICES

The undersigned (hereinafter, the “Contractor”) agrees to provide legal representation and Guardian ad Litem services for children, indigent parents and other legal parties as defined by statute in Child Protection cases, Delinquency cases for state rate assignments and GAL appointments, Family With Service Needs (FWSN) and Youth in Crisis (YIC) cases as ordered by the Superior Court for Juvenile Matters (SCJM) and assigned by the Chief Child Protection Contractor (CCPA). The period of the Agreement is July 1, 2007 through June 30, 2008.

SECTION 2 – DUTIES OF CONTRACTOR:

- A. Legal representation shall include, but not be limited to, preparation, investigation, pretrial activities and court appearances through all stages of the proceedings, including final judgment at the trial court and/or appellate court level.
- B. By applying for and accepting this contract the contractor is certifying pursuant to Rule 1.1 of the Rules of Professional Conduct that the Contractor has a working knowledge of the Connecticut General Statutes applicable to child protection matters, including but not limited to C.G.S. §§ 46b-120 et. seq. and C.G.S. §§ 17a-1 through 17a-185, the Connecticut Practice Book Rules of Professional Conduct and Superior Court-Procedure in Juvenile Matters Chapters 26 through 35a, the Standards of Practice for Contractors in Child Protection Matters promulgated by the Commission on Child Protection and that the Contractor is competent to try a juvenile matters case.

- C. Any New Contractor (an attorney receiving a contract to provide representation in juvenile matters for the first time commencing July 1, 2007) certifies that he or she will attend the three day pre-service training provided by the CCPA and complete 2 of the 3 days of pre-service training prior to receiving any cases, at least 3 of the 4 In-Service trainings and 3 of the 5 Bi-Monthly trainings offered through the Center for Children's Advocacy between July 1, 2007 and June 30, 2008. Any Contractor who is herein renewing their prior contract with the CCPA certifies that he or she will attend a minimum of 2 of the 4 In-Service Trainings and 2 of the 5 Bi-monthly trainings offered through the Center for Children's Advocacy between July 1, 2007 and June 30, 2008. All Contractors who agree to provide representation in FWSN and Delinquency Matters will be required to attend a mandatory FWSN and Delinquency Training to be offered in the Fall of 2007.
- D. Any New Contractor certifies that he or she will participate in the Mentor Program offered by the CCPA and fulfill its requirements of observing the assigned mentor for one month prior to receiving any cases and accepting supervision from the assigned mentor for at least two cases and perhaps more if recommended by the assigned mentor.
- E. The Contractor shall maintain records of all work performed in relation to this Agreement and make all such records available to the CCPA for inspection, audit, and evaluation in such form and manner as the CCPA may require, subject to Contractor/client privilege.
- F. The duties required to complete legal representation in each case assigned during this contract period shall survive the expiration of the Agreement.
- G. The Contractor must submit, via the web based billing system of the CCPA and according to the instructions found on the Commission on Child Protection's website, his or her request for payment to the CCPA no later than 30 days following the close of the prior quarter. (See Section 3. A - Compensation).
- H. Contractors will be required to serve as a Standby Contractor for at least one OTC docket per month at a rate of \$150.00 per day.
- I. The Contractor is responsible for all expenses related to representation, unless otherwise agreed to by the Commission on Child Protection, as set for in Section 3.B of this Agreement.
- J. The Contractor agrees to accept appointments as stated in this Agreement. The Contractor may not refuse to accept appointments by the CCPA unless a conflict of interest precludes representation or the maximum caseload limit specified in the Agreement has been reached or the Contractor believes that accepting the case under his or her current workload constraints would be inconsistent with the Rules of Professional Conduct. Once the Contractor receives notification of a new case assignment, the Contractor must file an appearance with the court. Upon receiving the appearance filing, the court will provide the Contractor with the Petition and accompanying documentation.

- K. If the Contractor is an individual Contractor, the Contractor must file a written appearance in each case related to each appointment pursuant to Conn. Prac. Bk. §§ 3-5 and 3-7.
- L. If the Contractor is a law firm, the Contractor must file a written law firm appearance in each case related to each appointment. Any member or associate of the law firm, who is approved by the CCPA, must file an appearance in addition to the firm. In the event that a firm assigns a new lawyer to handle cases under the firm's contract, the firm will notify the CCPA and forward a completed Application for the new Contractor and Authorizations for Background and CPS Checks to the CCPA prior to allowing that Contractor to handle any children's cases. The firm is responsible for ensuring that the Contractors providing representation pursuant to its contract are qualified and properly supervised.

SECTION 3 – DUTIES OF CCPA:

A. COMPENSATION:

CCPA shall compensate the Contractor as follows:

\$ 40.00/hr. for each case assignment. Sibling groups shall be considered 1 case assignment for purposes of billing. If the Contractor reaches 50 hours on the case within the first year that the petition is pending or 100 hours on the case at any point in time, he or she shall contact CCPA to receive authorization for further billing.

(When representing a sibling group time spent on all of the children at once need not be divided by the number of children in the sibling group who are being represented. If you perform work on just one member or part of the sibling group you may note that in your report of activities for time keeping and billing purposes. Use the Hourly Report Form found on the CCPA website under Forms/Billing Forms. When the CCPA implements its web-based Information/Case Management/Database System, all Contract Contractors will be expected to utilize this system for time keeping and bill submission.)

Contractors must follow the record keeping and reporting requirements contained in Section 5 and may be subject to audit procedures, including specific bill reviews and random audits.

Contractors will submit a request for payment via the web-based billing system on the Commission on Child Protection's website for cases assigned no later than one month after the end of each quarter.

Billing on pre-July 1, 2007 cases:

Any cases that a Contractor has on their caseload as of June 30, 2007 on which the attorney has performed 12.5 hours of work as of June 30, 2007 is eligible for \$40.00 per hour billing for work performed on that case after July 1, 2007. All other pre-July 1, 2007 contract cases will need to reach the 30 hour mark before being eligible for \$40.00 per hour billing. (This provision is subject to change by decreasing the number of hours to 12.5 for all cases, depending upon a

review of the CCPA's expenditures during the first and second quarters.) Attorneys wishing to bill hourly for those pre-July 1, 2007 cases must submit an Initial 12.5 Hour Report Form listing the activities performed, the amount of time the activity required and a Certification that the work was performed in the amount of time reported.

Compensable Activities:

- Any scheduled court hearing or conference;
- Time spent at the courthouse interviewing clients;
- Travel time to and from the courthouse, administrative hearings, client placement visits, DCF, service provider or education meetings;
- Client and witness interviews;
- Home visits;
- Preparation of case or court documents, including legal research;
- Investigation;
- File review for case or court purposes;
- Attendance at administrative case reviews, hearings, meetings and any other case-related conference not scheduled in court;
- Filing of petitions, motions, responses or objections as necessary to represent the client;
- Telephone or electronic (e- mail) consultation with lawyers for other parties, GAL's, non-lawyer GALs, social workers, probation officers, service providers, school personnel, and other individuals with information pertinent to the case.
- Two hours per month for bill submission preparation for all cases.

Time spent by a pre-approved paralegal, paid legal intern or properly supervised social worker for any of the listed compensable activities can be billed at the rate of \$15.00 per hour. The activity entry on the billing forms must indicate if the work was performed by a non-attorney.

Payment is not authorized for:

- Office or administrative overhead;
- Clerical assistance or for time clerical assistants spend on any matters concerning an appointment;
- Delivery Services;
- Mileage;
- Routine copying costs;
- Postage;
- Faxing;

B. PAYMENT:

The CCPA will render timely payment under the terms of the Agreement in accordance with C.G.S. §4a-71 depending on timely submission of accurately completed billing forms via the website's electronic submission procedure specified above.

The Commission will pay, with prior approval of the CCPA and in consultation with the Contractor: Expert Witness fees, investigation expenses, interpreter services, ordering of transcripts, out-of-state travel, costs of copying trial exhibits and documentation for record reviews by expert witnesses, appellate brief filing and other exceptional expenses. Approved expenses for expert witnesses may be billed directly by the expert to the CCPA. Fees to issue subpoenas for trial witnesses will not require pre-approval. Marshals, as well as experts, interpreters, and court monitors, should be instructed to submit their bills directly to the CCPA.

C. CASELOAD

The CCPA is not obligated to make appointments up to the maximum caseload limit under this Agreement. The maximum Agreement caseload limit may be increased upon application or decreased pursuant to the CCPA's promulgation of case load standards as required by C.G.S. § 46b-123d.

D. TRAINING:

The CCPA will conduct mandatory trainings offered free of charge for Contractors throughout the State and will offer additional training scholarships for trial skills and national child welfare law conferences. Contractors will attend mandated training according to the requirements set forth in Section 2C & D above.

SECTION 4 – SCOPE OF REPRESENTATION:

A. REPRESENTATION OF CHILDREN –

(1) CHILD PROTECTION CASES:

The appointment is based upon the specific child or sibling group that the Contractor is appointed to represent and for whom the Contractor has filed an appearance. The appointment to represent the specific child or sibling group includes the initial petition (writ, summons and complaint) filed, and includes all subsequent motions or petitions resulting from adjudication or disposition of the petition while the file on the original petition remains open. If the Contractor representing the child or another party files a motion, application, petition for reinstatement or removal of guardian, a Termination of Parental Rights Petition or an Appeal, the Contractor must continue to represent the child through that process. The Contractor must notify the CCPA through the completion of the case activity portion of the Hourly Report Form whenever the following case benchmarks occur: visit or meeting with child client, case disposition, OTC Trial and disposition, Neglect Trial and disposition, Reunification, Termination of Parental Rights disposition, with or without an open adoption, Permanency Plan approved and achieved. A drop down list of benchmarks will be provided on the form.

If a child or youth who the Contractor represents attains the age of 18 and has agreed to voluntarily remain under the supervision and care of DCF, the Contractor may meet with that client and enter into an agreement with the client to continue providing legal representation so long as the client continues to receive support and services from DCF. If such an agreement is filed with the CCPA, you will be compensated for your legal services to said client.

(2) FWSN CASES:

The appointment to represent the specific child includes all initial petitions and/or informations filed (regardless of the number of docket numbers) and include all subsequent petitions and/or informations filed while the files on the original petition and/or information remain open. The appointment also includes all subsequent motions and petitions resulting from adjudication or disposition that pertains to the specific child that the Contractor is appointed to represent.

(3) GAL FOR DELINQUENCY:

The appointment to represent the specific child includes all initial petitions and/or informations filed (regardless of the number of docket numbers) and include all subsequent petitions and/or informations filed while the files on the original petition and/or information remain open. The appointment also includes all subsequent motions and petitions resulting from adjudication or disposition that pertains to the specific child that the Contractor is appointed to represent. (If you are appointed by the court to provide legal representation to a child on a delinquency case because the child does not qualify for Public Defender Services, unless the court has authorized such representation pursuant to C.G.S. § 46b-136, that case should be considered a private case and you must make at least three attempts to collect from the legally responsible party. If you are unable to collect for your services then you may bill the CCPA. Such submission must include the billing information for the legally responsible party).

B. REPRESENTATION OF INDIGENT PARENTS/LEGAL PARTIES - CHILD PROTECTION CASES

An appointment to represent the specific indigent parent/legal party includes all initial petitions filed (regardless of the number of children involved) and all subsequent petitions filed on additional siblings while the files on the original siblings remain open. The appointment also includes all subsequent motions and petitions resulting from adjudication or disposition that pertain to the individual indigent parent/legal party that the Contractor is appointed to represent. The Contractor is not obligated to file any motions, applications, and/or petitions for reinstatement or removal of guardians. However, if the Contractor believes there is a substantial change in their former client's circumstances and a reasonable chance of success, the Contractor may request permission to file such a Motion on behalf of their former client, representing that there is a substantial change in circumstance and a reasonable chance of success. If the request is granted, the Contractor will be compensated for such filings. If a former client files such a motion pro se and the court accepts the filing and the court finds that they are indigent, then the Contractor may be appointed on the case and will be compensated.

TPR petitions are considered separate appointments for purposes of case load. Contractors will be expected to represent their existing clients when a TPR is filed. If the Contractor does not wish to continue representing a client in relation to a TPR petition or the client represents that they no longer wish to be represented by the Contractor, the Contractor must notify the CCPA. The appointment includes all subsequent petitions filed on additional siblings while the files on the original sibling remain open.

C. GUARDIAN AD LITEM

Pursuant to C.G. S. §46b-129a(2) and §46b-123d, as they may be amended from time to time, appointments in the capacity of a GAL for the child or an incompetent parent shall be considered a single appointment.

D. APPEALS

Filing an appeal on behalf of a party will be considered a new appointment for purposes of annual caseload limits. If another party files the appeal, the Contractor must continue to represent their client through the appellate process unless a Motion to Withdraw Appearance has been granted or the court or CCPA has otherwise excused the Contractor.

SECTION 5 - RECORDKEEPING AND REPORTING

The Contractor must maintain detailed records of services performed including the case names and docket numbers related to each appointment opened and closed, the dates and times services were provided in each case related to each appointment, the type of service provided, the person providing the service, and the amount of time worked providing such services both by distinct activity and collectively for each appointment. Case specific records should be based on the individual Contractor's time records maintained contemporaneously with the activities recorded.

In addition, the Contractor must maintain documentation of billings and receipts for payment of any necessary expenses related to representation. All financial records, including time and activity records, shall be maintained separately from client files.

Failure to maintain proper billing records will be considered a breach of this Agreement. Such breach will bar the Contractor from recovering payment for services that are not properly documented and the CCPA may also elect to pursue any of the remedies set forth in Section 8 - Standard Terms and Conditions, Paragraph T - Contractor Default. If payment for services not properly documented has already been made, the CCPA has the right to demand return of payment and may also elect to pursue any of the remedies set forth in Section 6 - Standard Terms and Conditions, Paragraph Q - Contractor Default.

SECTION 6 - STANDARD TERMS AND CONDITIONS

- A. **Evaluations** - The CCPA reserves the right to inspect, monitor, or otherwise evaluate the work being performed under this Agreement. The Contractor agrees to cooperate with the CCPA in the monitoring and evaluation of services, which shall include, but not be limited to, providing reasonable access to and use of the Contractor's facility for such purposes.

- B. **Delay** - If services are not provided consistent with the Rules of Professional Conduct or the Standards of Practice to be adopted by the Commission on Child

Protection or within a reasonable time, the CCPA may exercise its options as outlined in Paragraph S herein.

- C. **Contingencies** - Neither party hereto shall be liable to the other for default or delay in delivering or accepting services hereunder if such default or delay is caused by fire, strike, riot, war, Acts of God, delay of carriers, governmental order or regulation or other contingency beyond the reasonable control of the respective parties. The Contractor shall give notice to the CCPA of any such unavoidable delays or defaults.
- D. **Non-Waiver** - Failure of the CCPA to insist upon strict performance of any terms and conditions herein shall not be deemed a waiver of any rights or remedies the CCPA may have, nor deemed a waiver of any rights or remedies the CCPA may have for any subsequent default.
- E. **Equal Opportunity** - The Commission on Child Protection of the State of Connecticut is an Equal Opportunity employer and purchaser. No employee or applicant for employment or vendor will be discriminated against because of race, color, religious creed, marital status, national origin, ancestry, sex, sexual orientation, age, present or past history of mental disorder, mental retardation or physical disability including but not limited to blindness, or veteran's status.
- F. **Civil Rights Agreement** - (1) The Contractor agrees and warrants that in the performance of the Agreement such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities (CHRO); (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other agreement or understanding and each vendor with which such Contractor has an agreement or understanding, a notice to be provided by the CHRO, advising the labor union or workers' representative of the Contractor's commitments under section 4a-60, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of Section 4a-60, 4a-60a, 46a-68e and 46a-68f and with each regulation or relevant order issued by said CHRO pursuant to Connecticut General Statutes

§§46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the CHRO and the Judicial Branch with such information, requested by them, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of C.G.S. §§46a-56 and 4a-60. If the agreement is a public works agreement, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

- G. **Non-discrimination Regarding Sexual Orientation** - (a) (1) The Contractor agrees and warrants that in the performance of the Agreement such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other agreement or understanding, and each vendor with which such Contractor has an agreement or understanding a notice to be provided by the CHRO advising the labor union or workers' representative of the Contractor's commitments under section 4a-60a and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of section 4a-60a and with each regulation or relevant order issued by said commission pursuant to C.G.S. §46a-56; (4) the Contractor agrees to provide the CHRO with such information requested by the CHRO, and permit access to pertinent books, records and accounts concerning the employment practices and procedures of the Contractor which relate to the provisions of C.G.S. §§46a-56 and 4a-60; (b) the Contractor shall include the provisions of subsection (a) of C.G.S. §4a-60a in every subcontract or purchase order entered into in order to fulfill any obligation of an agreement with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the CHRO.

The Contractor shall take such action with respect to any such subcontract or purchase order as the CHRO may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with C.G.S. §46a-56 provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

- H. **Americans With Disabilities Act of 1990** - This clause applies to those Contractors which are or will come to be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 (43 USCS Section 12101-12189 and Sections 12201-12213) (Supp. 1993); 47 USCS Sections 225.611 (Supp. 1993). During the term of the Agreement, the Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law.

The Contractor warrants that it will hold the state harmless from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act.

Where applicable, the Contractor agrees to abide by the provisions of section 504 of the federal Rehabilitation Act of 1973, as amended, 29 USC Section 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.

- I. **Subcontractors** - The CCPA reserves the right to approve any and all subcontractor agreements. The Contractor shall not subcontract any of the services required under this Agreement without prior written approval from the CCPA. Subcontractors shall be bound by all the terms and conditions of this Agreement. Subcontractors shall not relieve the prime Contractor of its responsibility under this Agreement.
- J. **Indemnification** - The Contractor hereby agrees to indemnify and hold the State of Connecticut Commission on Child Protection, its agents, employees, public officials and representatives harmless from any and all claims, causes of action, demands for damages, or liabilities of any kind, including the reasonable costs to defend such actions regardless of whether such action is successful or not, brought by any person or entity whatsoever, arising from any act, error, or omission of the Contractor and or its employees during or resulting from Contractor's activities (including those of subcontractors) under this Agreement.
- K. **Litigation** - The Contractor agrees to notify the CCPA if the Contractor is, or has a reasonable cause to expect to be, subject to litigation which might adversely affect the Contractor's ability to perform the agreed services or affect the Contractor's financial capacity.
- L. **Prohibition Against Assignment** - The Contractor shall not transfer, pledge or otherwise assign this Agreement or any rights or responsibilities hereunder to any third party.
- M. **Choice of Law** - This Agreement is governed by the laws of the State of Connecticut. It is agreed that any questions of interpretation of this Agreement or actions brought pursuant to this Agreement shall be according to Connecticut law.
- N. **Applicable Law** - The Contractor shall comply with Federal, State and local laws, standards and regulations applicable to the Contractor's facility and the services being provided under this Agreement. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

- O. **Approval Notification and Purchase Order** - The CCPA assumes no liability for payment under the terms of this Agreement until the Contractor is notified that this Agreement has been approved by the CCPA and a fully executed Agreement has been issued.
- P. **Termination of This Agreement** - The Contractor shall be subject to immediate removal from his or her cases and termination of this agreement for failure to adhere to the terms of this Agreement, Standing Orders of Juvenile Matters and/or the Standards of Practice promulgated by the CCPA or for other good cause shown.

In the event the legal rights of the Contractor's clients are endangered, the CCPA may cancel the Agreement and take any immediate action, without notice, it deems appropriate to protect the legal rights of the clients.

Either party may terminate the Agreement to provide legal representation for any reason by providing thirty (30) days prior written notice to the other party. Upon termination of the Agreement by either party, the Contractor shall assist in the orderly and timely transfer of appointments as directed by the CCPA, provided that the Contractor has been excused by the court and/or the CCPA from providing further legal representation in such cases related to those appointments.

If the Contractor seeks permission to withdraw from Agreement appointments, the Contractor must file a Motion to Withdraw Appearance in each related case in accordance with Connecticut Practice Book Rule §3-10(c), as it may be amended from time to time, and shall reimburse the CCPA for unexpended compensation. Documentation of hours worked will be required to be filed along with any Motion to Withdraw Appearance. When a Contractor withdraws or is removed from a case for cause, reimbursement of a portion of the flat rate fee to the CCPA is required if the Contractor spends less than ten (10) hours on a case related to a specific appointment.

All provisions of this Agreement survive any termination or non-renewal, including but not limited to, Section 6 - Standard Terms and Conditions, Paragraph Q, Contractor Default and Paragraph T, Contractor Records and Access.

- Q. **Contractor Default** - If the Contractor becomes financially unstable, defaults or otherwise fails to comply with any of the terms, provisions or conditions of this Agreement or any of the Exhibits or Amendments which are part of this Agreement, the CCPA may elect to pursue any one or more of the following remedies in any combination or sequence:
- Seek damages,
 - Withhold or reduce payment(s) until the default is resolved to the satisfaction of the CCPA,
 - Require the Contractor to correct or cure the default to the satisfaction of the CCPA,

- Either temporarily or permanently discontinue the execution of all or part of the services,
- Require the unexpended or improperly expended funds be returned to the CCPA,
- Assign appropriate state personnel to execute the Agreement until such time as the Agreement defaults have been corrected to the satisfaction of the CCPA,
- Require that Agreement funding be used to enter a sub-contractual arrangement with a person, persons or agency designated by the CCPA in order to bring the program into Agreement compliance,
- Terminate this Agreement,
- Take such other action appropriate and in the best interests of the CCPA, along with any other remedies provided by law, including, but not limited to, procuring services from other sources and charging the Contractor any excess costs incurred or damages occasioned thereby.

R. **Recoup of Payments Following Termination or Default** - The CCPA reserves the right to recoup any deposits, prior payment, advance payment or down payment made if the Agreement is terminated by either party or default occurs. Allowable costs incurred to date of termination or default for operation or transition of representation under this Agreement shall not be subject to recoupment. The Contractor agrees to return to the CCPA any funds not earned in accordance with the terms and conditions of the Agreement and, if the Contractor fails to do so upon demand, the CCPA may recoup said funds from any future payments owing under this Agreement or any other Agreement between the CCPA and the Contractor.

S. **Controversies or Claims** - Any controversy or claim arising out of this Agreement shall be pursued in accordance with applicable State and Federal laws. This provision shall not be deemed to constitute a waiver of sovereign immunity. The Contractor shall notify the CCPA of any claim or controversy brought against it by any person or entity during the term of this Agreement.

T. **Contractor Records and Access** - To the maximum extent permitted by law, the Auditors of Public Accounts and CCPA auditors shall have access to all records and accounts for each Agreement year. The Contractor shall maintain books, records, documents, program and individual service records, and other evidence of its accounting and billing procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Agreement. These records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the CCPA, State or applicable Federal agencies.

The Contractor will retain all such books, records and other financial program and individual service documents concerning this Agreement for a period of three (3) years after the close of the contract term and three additional years if an audit is performed in accordance with the Single Audit Act of 1991 Chapt. 55b, C.G.S. §4-230 to §4-236 inclusive within those three years, except as noted above. If any litigation, claim or audit is started before the expiration date of this three (3) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved or the expiration of the three year period, whichever is later.

To the maximum extent permitted by law, the Contractor shall maintain client files and make them available for inspection by any agent of the CCPA.

- U. **Contractor Insurance Required** - The Contractor agrees that, while performing services specified in this Agreement, it shall carry sufficient liability and/or other insurance and to maintain that coverage in full force for the duration of the Agreement term including any and all amendments. The following minimum amounts shall apply:

Workers' Compensation	CT Statutory Coverage required
Property Damages	\$100,000.00
General Liability	\$500,000.00
Professional Liability	\$500,000.00

The Contractor is considered an independent contractor and shall be responsible for providing sufficient malpractice insurance. Prior to execution of an Agreement, the Contractor shall provide a valid certificate of insurance verifying malpractice insurance coverage of \$500,000.00. Failure to provide such a certificate will result in the Agreement not being issued. During the term of the Agreement, notice of termination of malpractice insurance coverage and failure to provide a new insurance certificate will be considered a breach of the Agreement.

- V. **Safeguarding Client Information** - The Contractor agrees to safeguard the use and disclosure of information concerning all applicants for and all clients who receive service under this Agreement in accordance with all applicable Federal and State laws and court rule concerning confidentiality. Notwithstanding any other provision to the contrary, the Contractor is solely responsible for any disclosure of information in violation of Federal, or State law by it, its employees and agents.

- W. **Service Performance Standards** - The Contractor agrees that all services shall be performed with skill and professional competence in accordance with the Rules of Professional Conduct, any applicable Standing Court Orders, and the Standards of

Practice established by the Commission on Child Protection pursuant to C.G.S. §46b-123d(3).

- X. **Contractor Responsibilities if Non-Renewal or Termination Occurs** - In the event this Agreement is not renewed or it is terminated, the Contractor will at the request of the CCPA assist in the orderly transfer of all responsibilities, including clients currently being served, to the new Contractor.
- Y. **Notice of Adverse Findings of Discrimination** – Contractors that receive United States Department of Justice funds shall submit directly to the U.S. Department of Justice and the CCPA notice of any adverse findings of discrimination issued within the past three years after the opportunity for a due process hearing by any State or Federal administrative agency or court. Submission under this provision should be forwarded to: U.S. Department of Justice Programs, Office of Justice Programs, Office for Civil Rights, 810 Seventh Street, N.W., Suite 8135, Washington, DC 20531 and the Materials Management Unit, the Judicial Branch of the State of Connecticut, 90 Washington Street, Hartford, CT 06106.
- Z. **Tax Exempt** - The CCPA is exempt from Connecticut Sales Tax under C.G.S. §12-412, Federal Excise Taxes, and the provisions of the Federal Robinson-Patman Act.
- AA. **Entire Agreement** - The terms and conditions of this Agreement constitute the entire agreement between the parties hereto and supersede all previous agreements, promises or representations whether written or oral. This Agreement may not be changed, altered or modified except by an instrument in writing signed by a duly authorized representative of both parties.
- BB. **Acceptance** - The Contractor agrees to and accepts the terms and conditions stated herein.

COMMISSION ON CHILD PROTECTION

Name of Contract Contractor or Firm

BY: _____

Carolyn Signorelli
Chief Child Protection Contractor

Contractor

DATED: _____

DATED: _____

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.**
- 12. Be aware of the client's mental health status and be prepared to assess whether the parent can assist with the case.**

C. INVESTIGATION

- 1. Conduct a thorough and independent investigation at every stage of the proceeding.**
- 2. Interview the client well before each hearing, in time to use client information for the case investigation.**

D. INFORMAL DISCOVERY

- 1. Review the child welfare agency case file.**

2. Obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and information from the social worker and providers.

E. FORMAL DISCOVERY

1. When needed, use formal discovery methods to obtain information.

F. COURT PREPARATION

1. Develop a case theory and strategy to follow at hearings and negotiations.
2. Timely file all pleadings, motions, objections, and briefs. Research applicable legal issues and advance legal arguments when appropriate.
3. Engage in case planning and advocate for social services using a multidisciplinary approach to representation when available.
4. Aggressively advocate for regular visitation in a family-friendly setting.
5. With the client's permission, and when appropriate, engage in settlement negotiations and mediation to quickly resolve the case.
6. Thoroughly prepare the client to testify at the hearing, if appropriate.
7. Identify, locate and prepare all witnesses.
8. Identify, secure, prepare and qualify expert witnesses when needed. When permissible, interview opposing counsel's experts.

G. HEARINGS

1. Attend and prepare for all hearings, including pretrial conferences.
2. Prepare and make all appropriate motions and evidentiary objections. Be aware of the need to make a record for appeal.

- 3. Present and cross-examine witnesses, prepare and present exhibits.**
- 4. Request closed proceedings (or a cleared courtroom) in appropriate cases.**
- 5. Request the opportunity to make opening and closing arguments.**
- 6. 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 client.**

H. POST HEARINGS/APPEALS

- 1. Review court orders to ensure accuracy and clarity and review with client.**
- 2. Take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court.**
- 3. Consider and discuss the possibility of appeal with the client.**
- 4. If the client decides to appeal, timely and thoroughly file the necessary post-hearing motions and paperwork related to the appeal and closely follow the rules of appellate procedure.**
- 5. Communicate the results of the appeal and its implications to the client.**

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.**
 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.**
- 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.**



Appendix V

General Assembly

Substitute Bill No. 1269January Session,
2007

* _____SB01269JUDAPP041007_____*

AN ACT CONCERNING THE QUALITY OF LEGAL REPRESENTATION OF CHILDREN AND YOUTH IN JUVENILE MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2007*) (a) The Commission on Child Protection shall establish the compensation rate for attorneys providing legal services and serving as guardians ad litem pursuant to section 46b-123d of the general statutes, which rate shall not be less than sixty dollars per hour.

(b) The Commission on Child Protection shall establish the compensation rate for nonattorney professionals employed by not-for-profit legal services agencies, individual attorneys or private law firms under contract with the Chief Child Protection Attorney pursuant to section 46b-123d of the general statutes who render professional services related to representation provided by such agencies, attorneys or law firms pursuant to said section, which rate shall be less than sixty dollars per hour. For the purposes of this subsection, "nonattorney professionals" includes, but is not limited to, paralegals, social workers, education advocates and health practitioners.

Sec. 2. (NEW) (*Effective July 1, 2007*) (a) The Chief Child Protection Attorney appointed under section 46b-123c of the general statutes shall establish a comprehensive program to provide mandatory initial and in-service training for attorneys providing legal services and serving as guardians ad litem pursuant to section 46b-123d of the general statutes.

(b) The Chief Child Protection Attorney shall oversee and ensure the accountability of attorneys providing legal services and serving as guardians ad litem pursuant to section 46b-123d of the general statutes, and shall investigate and resolve any complaint regarding an attorney who has entered into a contract pursuant to said section.

Sec. 3. (*Effective from passage*) (a) The Chief Child Protection Attorney appointed under section 46b-123c of the general statutes shall establish a pilot program to provide legal services to children and indigent legal parties in juvenile matters using a multidisciplinary agency model of legal representation. The Chief Child Protection Attorney shall conduct the program in an urban district of the superior court for juvenile matters and a nonurban district of the superior court for juvenile matters.

(b) The Chief Child Protection Attorney shall establish a pilot program for the forgiveness of law school loans for attorneys who commit to the full-time practice of law in the field of child protection.

(c) The Chief Child Protection Attorney shall contract with an independent evaluator to assess the effectiveness of the pilot programs established pursuant to this section in improving the quality of legal representation and the well-being of children referred to the Department of Children and Families for abuse or neglect. On or before January 1, 2009, the Chief Child Protection Attorney shall submit a report concerning the implementation and effectiveness of such pilot programs to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary and the select committee of the General Assembly having cognizance of matters relating to children, in accordance with the provisions of section 11-4a of the general statutes. Such pilot programs shall terminate not later than June 30, 2009.

Sec. 4. (*Effective July 1, 2007*) (a) The sum of four hundred eighty-one thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2008, for personal services.

(b) The sum of four hundred eighty-one thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2009, for personal services.

Sec. 5. (*Effective July 1, 2007*) (a) The sum of thirteen million nine hundred forty-four dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2008, for contracted attorneys, family matters attorneys and associated administration expenses.

(b) The sum of thirteen million nine hundred forty-four dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2009, for contracted attorneys, family matters attorneys and associated administration expenses.

Sec. 6. (*Effective July 1, 2007*) (a) The sum of one million six hundred thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2008, for the pilot program to provide legal services using a multidisciplinary agency model of legal representation established pursuant to subsection (a) of section 3 of this act.

(b) The sum of one million six hundred thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2009, for the pilot program to provide legal services using a multidisciplinary agency model of legal representation established pursuant to subsection (a) of section 3 of this act.

Sec. 7. (*Effective July 1, 2007*) (a) The sum of five hundred thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2008, for the pilot program for the forgiveness of law school loans established pursuant to subsection (b) of section 3 of this act.

(b) The sum of five hundred thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2009, for the pilot program for the forgiveness of law school loans established pursuant to subsection (b) of section 3 of this act.

Sec. 8. (*Effective July 1, 2007*) (a) The sum of fifty thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2008, for initial and in-service training for attorneys providing legal services pursuant to section 46b-123d of the general statutes.

(b) The sum of fifty thousand dollars is appropriated to the Commission on Child Protection, from the General Fund, for the fiscal year ending June 30, 2009, for initial and in-service training for attorneys providing legal services pursuant to section 46b-123d of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section
Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	New section
Sec. 7	<i>July 1, 2007</i>	New section
Sec. 8	<i>July 1, 2007</i>	New section

JUD

Joint Favorable Subst. C/R

APP