Legislative Advocacy for Attorney Services

ABA National Conference on Access to Justice for Children and Families
April 10, 2019
Introductions

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- Overview of our agencies & their structure
  - Colorado Office of the Child’s Representative
  - Committee for Public Counsel Services
  - Children’s Law Center of California
OCR: Fiscal Advocacy - Attorney Rate Increase

- Use of data
- Grassroots campaign with joint budget committee staff
- Relationship with fiscal analyst
CPCS: Responding to High Demand for Child Welfare Attorneys

- Staff offices
- Private attorneys
- Recruitment
- Legislation
- Other advocacy to reduce demand
CLC: Statewide Budget Advocacy

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▶ Right to counsel
▶ Research study to develop caseloads, maximums & funding needs
▶ 2015 & 2017 Increases
▶ Separate line item
▶ Current ask

FULL FUNDING FOR DEPENDENCY COUNSEL

Despite the extraordinary rights at stake in child welfare cases, funding for attorneys who represent parents and children in child abuse and neglect cases (dependency counsel) lags far behind need. High-quality lawyers are essential to any effort to amplify the voices of those most affected by the child welfare system. Research shows that high quality legal representation helps families achieve better long-term outcomes, including higher rates of family reunification, improved child safety and well-being, and reduced reliance on taxpayer-funded services. Strong, stable families contribute to safer, thriving communities. After 30 years of waiting for the state to keep its commitment, legal representation for children and families must be adequately funded, once and for all. High-quality legal representation provides an essential check and balance against unnecessary family separation and ensures that all kids, including those who may remain in foster care for many years, get the services and interventions they need and that the law requires.

HISTORY OF THIS UNDERFUNDED MANDATE

1989
Court-appointed dependency counsel was first declared a state fiscal responsibility as part of “four priorities” in 1989 through the Brown-Page Trial Court Funding Act, but the long transition to state funding only began 6 years later, with enactment of the Lockyer-Hawley Trial Court Funding Act, when the State assumed financial responsibility for ensuring “adequate access to justice including its obligation to fund court-appointed dependency counsel.”

JUDICIAL COUNSEL STANDARDS 2007
Judicial Council, despite the 2002 task study recommendations, below to budgetary restrictions and adopt a modified caseload standard of one 120-hour attorney per 4,000 individuals served across nine judicial districts. Funding fails to support even this modified standard.

HIGH CASeload LEAD TO UNDERFUNDED STudy 2015
Judicial Council hired outside consultant to study the growing conflicts of funding needs due to sustained growth in caseloads. Study conclusively shows the need for additional funding to adequately fund dependency counsel on average in any jurisdiction.

TRANSFORMATION STUDY: Review of evidence determines that state-adopted funding need for dependency counsel is $25.9 million (later $35.1 million as updated by Judicial Council, July 2018).

$35.1 million is the true dependency counsel funding need, bringing total budget to $156.7 million. Total funding continues to fall far short of need ranging from 57% to some counties.

Dependency Council funding established as a separate line item from other court operations.

2002-2004 CASELOAD STUDY
Judicial Council contracted with the American Human Association to conduct a quantitative research study for dependency counsel. The study asked: (1) dependency counsel should represent no more than 37 clients for two practice standards and (2) the average in CA was 275 clients – well above the base practice or zero-funding standards.

2009-2015 NO CHANGE IN STATEFUNDING, INCREASING CASeload AND RESPONSIBILITY FOR LAWYERS
Caseloads average 229 clients per attorney. State funding remains stagnant at $35.1 million, but legislature continues to enact numerous higher-foster care requirements and prohibition monitored and enforced by dependency counsel.

2017 BUDGET ACT
$35.1 Million augmentation, bringing total budget to $156.7 million (the amount estimated needed in the decade before to achieve average caseloads of 128 clients).

2018-2019 NO CHANGE
Budget remains $156.7 million leaving a 39% deficit of the program’s total need. Legal service providers are forced to cut costs between reduced caseloads and inadequate salaries, recruitment changes, and high turnover of staff and experienced workforce.

SOLUTION: ACHIEVING A FULLY FUNDED MANDATE

1. Commit to full funding for the dependency program, as needed, as established by the Judicial Council of California: Fund the 2019-20 Dependency Counsel line item at $207 million, an augmentation of $70 million over current funding.

2. Plan for future evidence-based line item adjustments to recognize changes in caseload, personnel and administrative costs to ensure the commitment to reasonable attorney caseloads can be sustained over time.
Policy Advocacy

- How is this different than fiscal advocacy? How is it similar?
- YOU can make change...
- Playing “offense” and “defense”
- Examples of legislative advocacy
  - OCR - Juvenile Definition of Competence, Education Success Bill
  - MA - Status offense bill
  - CLC - Extension of foster care & relative placement
Tips & Tools for Fiscal/Policy Advocacy

1. Build relationships
2. Build a coalition
3. Find your champion
   - Foster care is a bipartisan issue
4. Rely on experts
5. Rely on data/research
6. Use the media

Advocacy guide:
Discussion

Successes and challenges in your jurisdictions
Contact

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OCR Expenses

95% of our appropriation is spent directly on attorney services.
Consumer Price Index

Denver-Boulder-Greeley

Colorado

<table>
<thead>
<tr>
<th>Year</th>
<th>CPI Increase</th>
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Over 80% of OCR expenditures occur in the Front Range
History of OCR Attorney rates

2000 to 2006: $47
2007*: $57
2008: $60
2009 to 2014: $65
2015 to present: $75

*submitted a 5 year plan to increase the rate to $75 by 2009
Steps Taken to Respond to High Demand for Child Welfare Attorneys in CPCS’s Children and Family Law Division January 2014-December 2018

Staff Offices

1. CPCS has hired more than 99 trial attorneys for trial offices in its Children and Family Law Division (CAFL) since January 2014. While most of the new attorneys have filled vacancies (the result of high attrition rates), the hiring resulted in a net increase in the number of trial attorneys from 81 at the beginning of 2014 to 106 as of November 1, 2017.

2. We have hired, rehired, or reassigned 26 attorneys for our Springfield CAFL office, which resulted in doubling the size of that office (from 2014 to 2017).

3. CPCS has also hired paralegals to work in its Springfield and Worcester offices to help increase the offices’ overall case-taking capacity.

4. In addition to agency-wide efforts to combat attrition, we have pursued other ways to promote CAFL staff retention, including creating opportunities for staff attorneys to mentor/supervise new attorneys and interns, encouraging staff to become more active with community service in the cities and towns in which they practice, involving staff in recruiting efforts at law schools, and including staff in the interviewing process for new hires.

5. We established a rotation program in FY16, allowing attorneys in other CPCS divisions to rotate into a CAFL office for one to two years. This program has brought six attorneys into CAFL trial offices.

6. We created an incentive program in FY18, providing additional compensation to staff attorneys to encourage them to transfer temporarily to the Springfield CAFL office.

Private attorneys

7. We lobbied for, and the Legislature approved, a provision in CPCS’s enabling statute authorizing us to waive the annual 1650-hour cap (up to a limit of 1800 hours) for CAFL attorneys.

8. We lobbied for, and the Legislature approved, authorization to provide a county-specific emergency increase in the hourly rate for attorneys handling care and protection cases, along with a temporary increase in the annual cap to 2,000 hours.

9. We have also advocated a temporary increase in the annual cap to 2,000 hours for all CAFL attorneys.

10. We eliminated the 1500-hours-per-year billing cap for new CAFL attorneys in 2017.

11. We lifted restrictions on out-of-county practice to allow attorneys to take cases in counties in which they do not have office space.

12. We sought and have obtained approval from our Committee to modify our policy regarding the use of associates in CAFL cases to allow associates to handle certain matters, with a goal of allowing the appointed attorney to take additional assignments (using the time that would otherwise spend on those matters).
13. We have **encouraged private attorneys to take additional cases** (including working with Chief Justices Gants and Carey to enable them to communicate directly with panel members).

14. We have **met with private attorneys throughout the state** to learn more about how we might make the practice of child welfare law more attractive to attorneys.

15. We have worked with local Juvenile Court judges to **address inefficiencies in Juvenile Court practice** that make attorneys less willing to accept care and protection assignments.

16. We have helped organize and participated in a **Springfield summit** to provide attorneys an opportunity to speak directly with Chief Justices Gants and Nechtem regarding what keeps them from taking more assignments.

17. We have **established a social work coordinator position** to help facilitate private attorneys’ use of retained social workers (who will help make attorneys’ advocacy more effective and more efficient).

18. We have obtained grant funding to **make workspace available in Springfield** to attorneys from other counties and attorneys who were new to the practice to enable them to accept assignments there.

**Training**

19. Since 2014, we have **increased the frequency of trial panel certification training** from once per year to two or three times per year.

20. We have **increased the class size** for trial panel certification training to 50-60 per class (from 18-30 per class).

21. We have obtained funding from the SJC’s Court Improvement Program and taken other steps to **reduce the cost of training for private attorneys**.

22. We are planning a **Springfield-based certification training** for the spring of 2019 to address our need for attorneys in Hampden County.

23. We have offered **trial panel certification training in multiple locations**, sometimes simultaneously, to increase the pool of attorneys in areas of need:
   a. March 2014 – first four days in Sturbridge; training completed in either Taunton or Worcester
   b. September 2014 – Marlborough
   c. February/April 2015 – first four days in Worcester; training completed in Boston
   d. September 2015 – Boston
   e. February 2016 – Worcester (for private attorneys already working with CPCS in other practice areas)
   f. March/April 2016 – first four days in Marlborough; training completed in either Marlborough or Boston
   g. September 2016 – ran program simultaneously in Holyoke and Boston with some live webcasts
   h. April 2017 – first four days in Sturbridge; training completed in either Sturbridge or Boston
   i. September 2017 – first four days in Sturbridge; training completed in either Springfield or Boston
j. March/April 2017 – first four days in Sturbridge; training completed in either Springfield or Boston
k. September 2017 – first four days in Sturbridge; training completed in either Springfield or Boston

24. All told, over a 4½ year span beginning in March 2014, we conducted trial panel certification training for about 450 private attorneys to allow them to represent clients in all types of CAFL cases.
25. Over the same time period, we trained more than 80 staff attorneys to enable them to represent clients in care and protection and CRA cases. (Other new hires had substantial CAFL experience and did not need to be trained.)
26. We provide additional training for new attorneys through mandatory two-day trial practice “bring back” programs for newly certified attorneys four times per year (previously offered once per year).
27. We are conducting our mandatory half-day “Rogers” training for newly certified attorneys twice per year (previously offered once per year).
28. With the goal of providing another route to full-fledged CAFL practice for less experienced attorneys, we created new CRA-only certification training program and trained more than 130 private attorneys between March 2015 and February 2018.1
29. We created a new guardianship-of-a-minor certification training in response to SJC decisions recognizing a right to counsel for parents in such cases and trained 46 private attorneys to enable them to represent clients in those cases.2
30. We have provided mentor training to experienced attorneys recruited to mentor the newly certified C&P, CRA, and guardianship attorneys.

Recruitment

31. We temporarily assigned a staff attorney to work half-time with HR on recruiting new attorneys.
32. We have asked law school career service offices to inform their alumni about the trial panel training.
33. We have participated in various other recruitment events at area law schools.
34. With a focus on western Massachusetts, we have met with WNEU staff and developed plan for outreach to WNEU law students, which included participating in WNEU Externship Fair and a “Lunch and Learn” session for current WNEU students.
35. We have worked with WNEU to develop a law school to panel pipeline – a way to attract law students to and help them launch a career in the practice of child welfare/state intervention law.
36. At our request, MCLE emailed announcements about our trial panel training to everyone in its database.

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1 Besides providing a new way to launch a CAFL practice, the CRA-only training was also created with the hope that having more CRA-only attorneys would relieve pressure on C&P-certified attorneys to take CRA cases and allow them to handle more C&P cases.
2 As with the CRA-only training, this program was designed in part to provide relief to the C&P attorneys who would otherwise be handling some of those guardianship-of-a-minor assignments.
37. We have recruited attorneys through local bar associations, affinity groups, and bar advocate programs – which included holding an information session at the Hampden County Bar Association for interested members.

38. We have placed ads and other announcements about the trial panel training in Mass Lawyers Weekly and local bar association newsletters.

39. We have met with Manpower Group staff to identify new recruitment strategies.

40. We have developed new public relations/recruitment materials to use in recruitment.

41. We have contacted the “Starting Out Solo” group and followed up with members who were interested in learning more about our practice.

42. Through letters from CPCS and through remarks made by SJC Justices and the Chief Clerk at swearing-in ceremonies, we have invited new attorneys to consider becoming certified to handle child welfare cases through CPCS or consider becoming CPCS staff attorneys and have attended those ceremonies to follow up with them.

43. We have recruited new attorneys at “Practicing with Professionalism” events in Springfield and Worcester.

44. We have recruited child welfare attorneys from neighboring states.

Legislation

45. We have obtained sponsors for a number of legislative proposals that would change existing law to more quickly dispose of CAFL cases and streamline court processes, with the goal (or a side benefit) of reducing the number of hours lost to inefficiencies and delays. If enacted, these bills would:
   a. Accelerate a child’s reunification with family members (which would shorten the duration of cases, thereby reducing the number of attorney hours required);
   b. Allow the Juvenile Court to grant temporary custody to a previously non-custodial parent at any time after the care and protection petition is filed (same);
   c. Make Juvenile Court custody orders fully enforceable (which would relieve attorneys of the task of going to Probate and Family Court to ask that court to enter its own (enforceable) version of the Juvenile Court’s order); and
   d. Make the appointment of court investigators discretionary as opposed to mandatory (which would reduce the amount of time lawyers spend preparing for and responding to unnecessary court investigations).

Other advocacy to reduce demand

46. We have proposed to the court that it increase the use of clerk magistrates (for uncontested matters) and staggered court calls to reduce the amount of time that lawyers spend (and bill) for waiting time – time which could, in the aggregate, be used to allow lawyers to handle additional assignments.

47. We have proposed to the Juvenile Court that it dispose of cases more quickly when the issues that led to the case being brought by DCF have been resolved.

48. We have proposed the development of, and worked with other stakeholders to establish, a system to use mediation as a way to reduce the number of cases that require court intervention.
SB 213 will reduce unnecessary delays in relative placements for children in foster care and would expand the availability of placements by repealing redundant state criminal history restrictions and streamlining the process by which a prospective caregiver's criminal history is reviewed.

This bill will address needless impediments to appropriate relative and foster care placements by:

1. Aligning the list of non-exemptible crimes with those required by federal law, and
2. Improving the exemption process by creating a “presumptive” exemption for minor crimes.

These changes do not compromise child safety. California law will continue to prohibit – without any discretion to make exemptions – placement with any person with a serious or violent felony conviction (no matter how long ago), or with an assault, battery, or drug-related felony conviction within the past 5 years.

Furthermore, the 2015 enactment of AB 403 requires state-wide implementation of the Resource Family Approval (RFA) process. Under RFA, all foster and relative homes are required to undergo a “psychosocial assessment,” which includes a thorough consideration of the homes, including any criminal history of the caregiver or household members.

Current laws relating to the criminal history of a prospective foster or kinship caregiver are overly broad and restrictive. Several lists of crimes have been deemed “non-exemptible,” and with the 2008 enactment of the federal Adam Walsh Act, California added overlapping federal rules on top of the existing state rules – creating a complex maze of restrictions. Furthermore, for all other crimes in which any household member has been convicted – no matter how minor, how long ago or how unrelated to child safety – an exemption must be granted to approve the home.

The burdensome exemption process has a very detrimental impact on children. Too many foster youth linger in shelters or foster homes awaiting placement with loving and familiar relatives. In addition, there are would-be foster parents who are disqualified for a crime such as petty theft that happen decades ago.

**SUPPORT**

Alliance for Children’s Rights (Co-Sponsor)
Children’s Law Center of California (Co-Sponsor)
County Welfare Directors Association of California (Co-Sponsor)
Public Counsel (Co-Sponsor)

**FOR MORE INFORMATION**

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A 2008 caseload study by the Judicial Council of California recommended a maximum caseload of **141 clients** per full-time dependency attorney be the base-level standard of performance, and **77 clients** to achieve an optimal best practice standard of performance. Since then, the Judicial Council has annually updated the funding estimate needed to achieve a statewide maximum of **141**.  

In 2014, a Legal Representation Workgroup, through the Pennsylvania Office of Children and Families in the Courts, conducted a detailed systematic study and concluded that caseloads for dependency attorneys should be **66 child clients** or **87 parent clients**.  

The National Association of Counsel for Children, American Bar Association and U.S. Department of HHS Children’s Bureau recommend a maximum of **100 active clients**.

### CASLOAD NUMBERS BY STATE

![Caseload Numbers by State](image)

### WHAT THE RESEARCH TELLS US

- High quality legal representation in dependency court proceedings improves outcomes for children and can demonstrate cost savings.  
- Improving representation by providing reasonable compensation and reduced caseloads, oversight, access to experts and social workers, and attorney evaluation led to an 11% higher exit rate to reunification and shorter timelines to other forms of permanency (adoption and guardianship).
- An ongoing Oregon pilot project providing for decreased caseloads and increased compensation is already demonstrating improved outcomes. A higher share of children have been returned to their biological parents and the wait time for children to get to permanency has decreased.
Arkansas: A full-time attorney shall not have more than 75 dependency-neglect cases, and a part-time attorney shall not have more than 25. (AR Sup. Ct. Adm. Order No. 15 § 2 (n))

Colorado: Attorneys representing children do not represent more than 100 clients. This is not in statute but Colorado is working now to add this requirement to its Chief Justice Directive. (Per Chris Henderson, Executive Director, Colorado Office of the Child's Representative)

Georgia (DeKalb and Fulton Counties): By consent decree, dependency attorneys representing children shall represent no more than 130 clients for full time, 65 for part-time (Kenny A.)

Massachusetts: Regulations set a maximum caseload limit of 75 open cases for counsel for children and parents in dependency cases (Section 5(v) in the 2018 CPCS Manual for Assigned Counsel).

Maryland: The caseload for a parent's attorney ranges between 75 to 125 depending upon the location in the state. (Per Vanita M. Taylor, Chief Attorney, Baltimore City Juvenile Justice Center, Office of the Public Defender)

New Jersey: Public Defender's Office of Parental Representation cannot represent more than 75 clients; in 2017 the average attorney caseload was 67 clients. https://nj.gov/transparency/performance/defender/pdf/2017_01-03.pdf

New York: Subject to adjustment based on a number of factors, the number of children represented at any given time by a dependency attorney shall not exceed 150. (22 NYCRR §127.5). This is the statewide standard, but caseload numbers vary depending on the jurisdiction. In the Bronx, experienced attorneys carry 75-85 cases. (Per Emma S. Ketteringham, Managing Director, The Bronx Defenders). Interim report from NYS Commission on Parental Legal Representation’s Report recommends 50-60 parent clients/attorney for Parental Legal Representation (http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR_Commission-Report.pdf)

Washington: The caseload of a full-time public defense attorney shall not exceed 80 open juvenile dependency cases. (Section 3.4 in the WA State Supreme Court Standards for Indigent Defense)

Wyoming: An attorney performing guardian ad litem services on a part-time basis shall not carry more than 40 juvenile court cases, and an attorney on a full-time basis shall not carry more than 80 juvenile court cases. (Wyo. Rules and Regulations for the Guardians Ad Litem Program, Ch. 2, § 6(b))

RESOURCES

Despite the extraordinary rights at stake in child welfare cases, funding for attorneys who represent parents and children in child abuse and neglect cases (dependency counsel) lags far behind need. High-quality lawyers are essential to any effort to amplify the voices of those most affected by the child welfare system. Research shows that high quality legal representation helps families achieve better long-term outcomes, including higher rates of family reunification, improved child safety and well-being, and reduced reliance on taxpayer-funded services. Strong, stable families contribute to safe, thriving communities. After 30 years of waiting for the state to keep its commitment, legal representation for children and families must be adequately funded, once and for all. High-quality legal representation provides an essential check and balance against unnecessary family separation and ensures that at risk children, including those who may remain in foster care for many years, get the services and interventions they need and that the law requires.

HISTORY OF THIS UNDERFUNDED MANDATE

STATE RESPONSIBILITY 1989
Court-appointed dependency counsel was first declared a state fiscal responsibility as part of “court operations” in 1989 through the Brown-Presley Trial Court Funding Act, but the long transition to state funding only began 8 years later, with enactment of the Lockyer-Isenberg Trial Court Funding Act, when the State assumed historic responsibility for ensuring statewide equal access to justice including its obligation to fund court-appointed dependency counsel.

JUDICIAL COUNCIL STANDARD 2007
Judicial Council, despite the 2002 AHA study recommendations, bows to budgetary restrictions and adopts a modified caseload standard of max 188 clients per attorney (if assisted by a part-time social worker/investigator). Funding fails to support even this modified standard.

HIGH CASELOADS LEAD TO TASKFORCE STUDY 2015
Judicial Council creates taskforce to revisit caseload funding model due to outdated workload/cost assumptions. Simultaneously adopts 4-year reallocation of existing funds to equalize state funding based on current county caseloads.

TASKFORCE FINDINGS: Review of evidence determines that total statewide funding need for dependency counsel is $203 million (now $207 million as updated by Judicial Council, July 2018)
- $11 million increase to dependency counsel, bringing total budget to $114.7 million. Total funding continues to fall far short of need, resulting in significant cuts to some counties.
- Dependency Counsel funding established as a separate line item from other court operations.

2002-2004 CASELOAD STUDY
Judicial Council contracted with the American Humane Association to conduct a quantitative caseload study for dependency counsel. Findings: (1) dependency attorneys should represent [no more than 77 clients for best practice standards and] 141 clients for base-level standards, and (2) the average in CA was 273 clients – well above the best practice or base-level standards.

2009-2015 NO CHANGE IN STATEFUNDING, INCREASING TASKS AND RESPONSIBILITY FOR LAWYERS
Caseloads average 325 clients per attorney. State funding remains stagnant at $103.7 million, but Legislature continues to enact numerous new foster care requirements and protections monitored and enforced by dependency counsel.

2015 BUDGET ACT
$22.1 Million augmentation, bringing total budget to $136.7 million (the amount estimated more than a decade before to achieve average caseloads of 188 statewide)

2017 BUDGET ACT
Budget remains $136.7 million leaving a 34% deficit of the program’s total need. Legal services providers are forced to choose between reduced caseloads and inadequate salaries, recruitment challenges, and high turnover of a skilled and experienced workforce.

2018-2019 NO CHANGE

SOLUTION: ACHIEVING A FULLY FUNDED MANDATE

(1) Commit to full funding for the dependency representation program need, as established by the Judicial Council of California: Fund the 2019-20 Dependency Counsel line item at $207 million, an augmentation of $70 million over current funding.

(2) Plan for future evidence-based line item adjustments to recognize changes in caseload, personnel and administrative costs to ensure that the commitment to reasonable attorney caseloads can be sustained over time.
Q: What is the goal of AB 1688?

A: To provide youth in foster care a meaningful opportunity to have a voice in out-of-county placement decisions.

Q: What is the issue being addressed?

A: Under current law, when a social worker is considering moving a foster child out of the county of jurisdiction, the child’s parents are informed about the plan in advance and given an opportunity to express any concerns to the court (*Welfare and Institutions “WIC” § 361.2*). However, children are not provided that same opportunity.

This is contrary to California foster care laws, which generally ensure that children’s wishes are considered in significant decisions. This is also contrary to well-accepted research that has found improved outcomes within the foster care system when children have a meaningful voice.¹

Q: How would AB 1688 address the concern?

A: AB 1688 would amend *WIC § 361.2* to ensure that children are afforded the same rights as parents when it comes to out-of-county placements. Specifically, whenever an out of county placement is being considered, a child’s attorney and a child over 10 would receive notice of the planned move and an opportunity to file an objection if the child does not agree.

Q: Why is it important for children in foster care to have a voice in placement decisions?

A: One of the most important decisions to occur during a dependency case is where a child will live. The location of the child’s placement has a significant effect on the child, as it impacts everything from where the child goes to school to how often the child can see parents, siblings, relatives, and friends.

Q: Why is it especially important for children in foster care to have a voice in out-of-county placement decisions?

Many out-of-county placement decisions are made thoughtfully and with input from the youth, parents and other important individuals in the youth’s life. For example, often times the youth is moving to another county to be placed in the home of a relative or to join a sibling. According to the California Child Welfare Indicators Project (CCWIP), over 20% of foster care placements with kin are out-of-county placements. This bill would have no impact on those placements.

However, on occasion an out-of-county placement decision is made without any knowledge by or input from the youth, and it ends up having a devastating impact on the life of a child. The placement results not only a new home, but also a new school and community, separation from family and relatives, and/or a disruption or termination of therapeutic, educational or other...

important services. Important relationships with friends, teachers, pastors, mentors and other supportive adults are frequently lost because of the distance when a child is moved to another area in the state. Thus, it is critical that a child’s voice is not lost in such a significant decision.

Q: Is AB 1688 consistent with current law?

A: Yes. As described above, the Welfare & Institutions Code generally ensures that children’s wishes are considered in significant decisions. Children have a right to an attorney, they are provided notice of hearings and copies of court reports, and have a right to participate in proceedings and to address the court.

In addition, children already have a right to notice as soon as a decision has been made with respect to a change in placement (WIC 16010.6(a)). This bill would simply provide that a child must be noticed in advance of an out-of-county placement according to the provisions in WIC § 361.2(h).

Q: Is AB 1688 consistent with the Continuum of Care Reform?

A: Yes. The Continuum of Care reform efforts have recognized the importance of a child’s voice. AB 403 resulted in the creation of “Child and Family Teams,” which include the child and are meant to guide decision-making within the child welfare system.

Q: Has there been any support for the bill?

A: Yes. A number of child advocacy groups and others have supported the bill:

California Protective Parents Association
Children’s Advocacy Institute
Children’s Law Center of California (Sponsor)
Children Now
Coalition of California Welfare Rights Organization, Inc.
Families Now
Family Law Section
Public Counsel

Q: Has there been any opposition?

A: There has been no opposition.