April 17, 2020

Dear Leader McConnell, Minority Leader Schumer, Speaker Pelosi and Minority Leader McCarthy,

On behalf of the American Bar Association, which is the largest voluntary association of lawyers and legal professionals in the world, I write to express our support for emergency supplemental funding in the next stimulus bill to ensure that the child welfare system has the tools it needs to prevent or address child maltreatment caused or made worse by the COVID-19 pandemic. Based on congressional requests for information that we have received, I am also writing to provide more details about the importance of this supplemental funding as it relates to court improvement programs across the United States.

In 2018, the Centers for Disease Control and Prevention (CDC) examined the public health problems associated with child abuse. They identified “family social isolation” as one of the highest risk factors for child maltreatment in the home – a risk factor made even more concerning during this period of “stay at home” orders and social distancing across the country. Several programs outlined in a recent advocacy letter by national child welfare organizations provide community support to ease the burdens of isolation for families and prevent the risks of maltreatment. There are also existing programs that can help stabilize a child’s situation when intervention in the family becomes necessary because of safety concerns. Within the category of interventions, state courts play a critical role in ensuring that, when children must enter foster care, each child’s and parent’s rights are protected and legal proceedings follow congressionally required processes to minimize the amount of time a child remains in foster care.

Congress enacted the State Court Improvement Program (CIP) twenty-eight years ago as a bipartisan program designed to improve the legal processes in the child welfare system, promote better outcomes for children and families, and enhance collaboration between the courts, child welfare agencies, and tribes. CIP grants are distributed to the highest court in each state, which receives a base amount of $255,000, with additional funding based on the state’s child population. CIP is the only source of federal funding for state courts related to child welfare and, because the program exists in every state, it is well-positioned to help address challenges in the

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administration of legal proceedings in this field, especially during the ongoing COVID-19 pandemic.

The ABA supports the child welfare community’s request for $30 million in emergency supplemental funding for CIP to mitigate the impact of the pandemic on the functioning of child welfare courts. Court-shutdowns, emergency technology needs, and reduced staffing are already resulting in delayed hearings, and, ultimately, compromised child safety, delayed family reunification, and loss of accountability and critical support to child victims and their families.

This increase in CIP funding would help address three key areas as a part of the pandemic response:

a. **Technology investments** to facilitate the transition to remote hearings for dependency courts. The Children’s Bureau at the U.S. Department of Health and Human Services recently issued guidance for the child welfare legal and judicial community which called on CIPs to consider using funds “to support and enhance virtual participation for parents, children, youth, and their attorneys in hearings and reviews.” The federal government followed up on that guidance with additional direction this week, urging state supreme courts “to work closely with the CIP in your state or territory to help acquire and support telework and video-conferencing equipment and software that will allow judges to continue to provide statutorily required oversight in ways consistent with public health mandates.” Many CIPs are already trying to provide this support but, as this is an unanticipated need, it is not covered under their current budgets and so they are constrained in what they can do in the near and long term to facilitate the transition to remote hearings. The result of not having technology and support to hold these hearings remotely means agencies and courts cannot advance pending child welfare cases to ensure children reunify when appropriate or exit foster care to other permanent placements such as adoption and guardianship. This is not a prospective outcome. For example, data released just this week show “Arkansas foster numbers rise as pandemic closes court hearings.” Transitioning to remote hearings and other technologically supported adaptations will help address this problem and prevent it from compounding.

b. **Training for judges, attorneys and caseworkers** on how to facilitate and participate in remote technology hearings that still comply with due process, meet congressionally mandated requirements, ensure child safety and well-being, and help inform critical judicial decision-making. For example, all dependency judges in Texas and many other states are using Zoom, but there is a technology learning curve and best practices must be developed for conducting virtual hearings. CIPs are the best positioned in each state to facilitate that training given existing infrastructure and relationships with the legal community, but they lack sufficient resources to meet the current needs. Training in this area is also highly relevant for attorneys and agency participants in hearings, which CIPs also are well-positioned to facilitate on the local level.

c. **Innovative programs to help families address aspects of the case plan that prevent delays in the legal proceedings.** As part of the process of ensuring children exit foster care in a timely manner, families must continue to fulfill legal requirements in their case plan. This includes engagement with multidisciplinary legal teams, family time and visitation, and access to counseling and parenting support services. As many of these
services have transitioned to also being conducted remotely, CIPs are working in each community to try to address gaps to ensure parent and child rights are protected and they can continue to access services to prevent unnecessary delays in the case resolution. Louisiana has some exciting examples developing, including a new technology tool called the “My Community Cares” Disaster Response Information System, which works to identify and meet immediate physical and emotional needs of families during crisis.

Thank you for your leadership in these challenging times and we appreciate your considering this request. If you have any questions, please contact ABA Governmental Affairs Legislative Counsel David Eppstein at 202-662-1766, David.Eppstein@AmericanBar.org.

Sincerely,

Judy Perry Martinez