February 16, 2012

The Honorable Gwen Moore
2245 Rayburn Office Building
U.S. House of Representatives
Washington DC 20515

Dear Representative Moore:

I write on behalf of the American Bar Association and its nearly 400,000 members to commend you for your strong leadership in introducing H.R. 3873, the Enhancing the Quality of Parental Representation Act of 2012. The ABA strongly supports enactment of this much-needed reform to provide quality representation for parents involved in the child welfare system.

For over 25 years the ABA has supported federal legislation to better ensure that children, youth, and families involved in the child welfare system receive well trained, high quality counsel. These lawyers are essential to help parties navigate the complex child welfare system and achieve the best possible outcomes. Further, the ABA has been a staunch supporter of all court reform efforts focused on court involvement with child welfare cases. This is especially true of The Court Improvement Program (CIP).

Since the program’s establishment in 1993, CIP has provided grants to the highest court in each state oversee state efforts to improve the quality, depth, and timeliness of child welfare court proceedings. Effective reforms funded in part with CIP grant money include tighter criteria for court continuances, improved case-flow management through the use of pretrial hearings and case management conferences, evaluation of judicial compliance with hearing deadlines, and reductions in the time it takes for lower court decisions to proceed through the appellate process. These and other efforts have led to a consensus, as indicated in a 2007 report by the U.S. Department of Health and Human Services (HHS), that CIP grants help improve collaboration and representation; improve the quality of child welfare hearings; help achieve goals of the Adoption and Safe Families Act of 1997, especially the timeliness of permanency for children in foster care; and increase awareness about the importance of child welfare issues within the court and community.

Children involved in the child welfare system directly benefit from high quality representation for parents, and the importance of such representation is reflected in recent legislative and administrative goals. In September 2011, the Child and Family Services Improvement and Innovation Act (P.L. 112-34) reauthorized CIP funds and added provisions encouraging state courts to increase and improve engagement of the family in court processes relating to child welfare, family preservation, family reunification, and adoption. This year’s HHS Program...
Instruction providing guidance on the reauthorized CIP directs states to focus some of their CIP dollars on high quality representation for parents, children, and the child welfare agency, both in and outside of court.

Data from organizations that provide representation for parents demonstrate that investing in high quality counsel results in improved outcomes for children. The Center for Family Representation (CFR), which provides a multidisciplinary model of parent representation in New York, tracked data from 2007 that show that more than 50% of the children of CFR clients avoided foster care placement all together. Where foster care could not be avoided, the project’s average length of foster care was just 4.5 months (with a median of 57 days) compared a statewide average of nearly two and a half years. Recent evaluations in Washington State and Michigan have documented similar improvements in the outcomes for children whose parents receive quality representation in child welfare proceedings. These include increased family reunifications, fewer reunification failures and case re-filings, reduced time to all permanency outcomes, continuance reductions, improved case participation by parents, and better access to services.

The Enhancing the Quality of Parental Representation Act would allow state courts to focus on improving legal representation for parents by devoting a stream of CIP funding to that critical area. As recognized by the 2007 HHS report, states are effectively using current CIP funding to leverage additional state funding to finance needed reforms, and states are targeting CIP funds consistent with best practice guidance. The proposed Act would provide state courts with targeted resources to provide parents with the highly effective models of representation evidenced in several leading state programs. More state courts would be equipped to evaluate their current system of providing parent representation and implement appropriate reforms (as Michigan and Wyoming have), draft and effectuate standards of practice for attorneys representing parents (as Iowa has done), fund law school clinics to provide high quality representation (as the District of Columbia and Iowa do), and continue to improve the training and mentoring opportunities available to parents’ attorneys.

For these reasons, we strongly support H.R. 3783. Thank you for your leadership on behalf of children, youth, and families.

Sincerely,

Thomas M. Susman