February 11, 2013

Honorable Mike Carrell, Chair
Human Services & Corrections Committee
Washington State Senate
435 J.A. Cherberg Building
P.O. Box 40466
Olympia, WA 98504-0466

Dear Chairman Carrell:

I write on behalf of the American Bar Association to express our support of SB 5461, legislation modifying provisions regarding the representation of children in dependency matters. The ABA is the world’s largest voluntary professional organization, with nearly 400,000 members and more than 3,500 entities. Its members include attorneys in private firms, corporations, nonprofit organizations, and government agencies, as well as judges, prosecutors, defense attorneys and public defenders, legislators, and law professors and law students. The ABA is committed to advancing the rule of law and improving the administration of justice. For over a century, the ABA has advocated for the ethical and effective representation of all clients, including children.

SB 5461 will provide attorneys to the most vulnerable foster children in Washington, including those whose parents’ parental rights have been terminated, those who have had four or more foster home placements, those who have been prescribed psychotropic medications, and those who have run away from previous foster placements. It will also make it easier for those involved with foster children and youth to request that an attorney be appointed to that child or youth.

ABA Policy, including the ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases and the ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings (hereinafter “ABA Model Act”), calls for a lawyer for every child in an abuse and neglect case. The ABA Model Act was drafted by children’s law experts throughout the Association, and input was invited from children’s lawyers across the country. In August, 2011, after an almost 3-year drafting process during which it was refined, debated, and discussed, the ABA Model Act was adopted by the ABA House of Delegates with widespread support, including co-sponsorship from the Judicial Division, the Section of Family Law, and Government and Public Sector Lawyers. In addition, almost 40 children’s law centers around the country supported the approval of the ABA Model Act.
As stated in the report that accompanies the ABA Model Act:

Courts in abuse and neglect cases dramatically shape a child’s entire future in that the court decides where a child lives, with whom the child will live and whether the child’s parental rights will be terminated. No other legal proceeding that pertains to children has such a major effect on their lives. While the outcome of an abuse and neglect case has drastic implications for both the parents and the children involved, only children’s physical liberty is threatened. An abuse and neglect case that results in removal of the child from the home may immediately or ultimately result in the child being thrust into an array of confusing and frightening situations wherein the State moves the child from placement to placement with total strangers, puts the child in a group home, commits the child to an institution, or even locks the child up in detention for running away or otherwise violating a court order. Our notion of basic civil rights, and ABA Policy and Standards, demand that children and youth have a trained legal advocate to speak on their behalf and to protect their legal rights.

The ABA supports laws to provide legal representation for children in all child abuse and neglect proceedings. SB 5461 would move Washington State’s laws significantly toward this important protection of their rights and interests by providing counsel to the most vulnerable foster children and youth.

The American Bar Association urges the Committee to adopt SB 5461 so that it may soon be considered by the Washington State Legislature and become law.

Sincerely,

Thomas M. Susman