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WISCONSIN STATE REPRESENTATIVE

41ST ASSEMBLY DISTRICT

Senate Bill 657: Appointment of Counsel in CHIPS Proceedings
Testimony of State Representative Joan Ballweg
Senate Committee on Judiciary and Public Safety
January 30, 2018

Thank you, Chair Wanggaard, and members of the Committee on Judiciary and Public Safety for holding this public hearing on SB 657.

You've heard myself, fellow legislatures and Gov. Walker refer to the work of First Lady Tonette Walker and her efforts in promoting Trauma Informed Care and Early Childhood issues with her Fostering Futures initiative. In 2011, her steering committee formed an advisory committee that included state agencies, healthcare and county organizations, the courts and legislators. I was one of the four members that had the opportunity to dive-in to the concerns and issues revolving around Wisconsin children.

Because of these connections, I was invited to participate in a conference sponsored by the American Bar Association on Parent Representation. State Public Defenders, private bar attorneys and judges brought together to hear about practices that help the courts run more effectively and efficiently and help children get to permanency sooner. The result is the proposal before you, developed with the State Public Defenders office, over the last three years. The Speakers Task Force on Foster Care has heard this as a priority from the courts.

Based on additional feedback from the courts, we introduced a substitute amendment to address the concerns that the language as drafted accidentally created an equal protection concern because it established a right to representation in the counties in the pilot program and not in other counties. The substitute amendment adjusted some language and more clearly separates the pilot program from the rest of the statutes that affect legal representation in CHIPS proceedings. My description of what the bill does will therefore be based on the substitute amendment.

SB 657 authorizes the State Public Defender (SPD) to create a pilot program to provide legal representation to parents whose children are the subject of a Child in Need of Protective Services (CHIPS) petition. The goal of this proposal is to provide legal representation to biological parents so they have the ability to follow the Court's orders at the initial hearings and not cause delays if the case proceeds to termination of parental rights. This will improve outcomes for children in protective services by providing a quicker path to permanency either by reunification or adoption.

Studies in other states have shown measurable cost-savings to the state and counties as well as increases in rates of reunification, adoption, and guardianship and a decrease in the number of

Termination of Parental Rights (TPR) petitions. Similar pilots were done in New York and Washington State, and eventually expanded to statewide programs because of their positive results:

- From Washington State (piloted 2002-2005)
 - Average days to permanency dropped from 344.8 to 251.9 (equates to foster care cost savings)
 - 44% decrease in TPR filings
 - 39% increase in reunification
 - 104% faster to adoption, 83% faster to guardianship
- From New York State
 - Estimated \$2,340,837 in foster care savings between July 2007 and March 2008
 - 10.2% reduction in re-entry of children to foster care

Wisconsin's SPD has provided legal representation to parents involved in CHIPS cases in the past, but in 1995 the state passed a law preventing this. Subsequently, TPR cases filed increased 81% the next year. Law prohibiting the state from providing legal representation was ruled unconstitutional in 1996 by the Wisconsin State Supreme Court. The Legislature, to date, has not addressed this issue.

SB 657 creates a 5 county (Brown, Outagamie, Winnebago, Racine, and Kenosha), 3 year pilot program with data collection and reporting requirements to determine the programs efficacy. The cost of the pilot program this biennium is \$739,600. The SPD's office advises that it does not need additional staff to provide representation, but instead will use additional funding to appoint cases currently assigned to staff attorneys to private bar attorneys. In addition, funding for private bar representation for adults in these cases is also required as SPD staff attorneys cannot represent both parents in one case, if applicable. If the pilot proves to be effective, then the legislature can consider expanding this to more counties.

The Wisconsin Association of Family & Childrens Agencies and the Wisconsin Chapter of the National Association of Social Workers registered in favor of this bill.

Thank you for your consideration of SB 657, and I am happy to answer any questions.



DAN FEYEN

STATE SENATOR

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To: The Senate Committee on Judiciary & Public Safety
From: Sen. Dan Feyen
Re: Senate Bill 657

Mr. Chairman, members of the committee, thank you for holding this hearing today.

Senate Bill 657 authorizes the State Public Defender (SPD) to create a pilot program to provide legal representation to parents whose children are the subject of a Child in Need of Protective Services (CHIPS) petition. The Wisconsin Office of the State Public Defender supports this proposal.

The goal of this proposal is to provide legal representation to biological parents so they have the ability to follow the Court's orders at the initial hearings and not cause delays if the case proceeds to termination of parental rights. This will improve outcomes for children in protective services by providing a quicker path to permanency either by reunification or adoption.

Studies in other states have shown measurable cost-savings to the state and counties as well as increases in rates of reunification, adoption, and guardianship and a decrease in the number of Termination of Parental Rights (TPR) petitions. Similar pilots were done in New York and Washington State, and eventually expanded to statewide programs because of their positive results.

SB 657 creates a 5 county (Brown, Outagamie, Winnebago, Racine, and Kenosha), 3 year pilot program with data collection and reporting requirements to determine the programs efficacy. The cost of the pilot program this biennium is \$739,600.

I believe as legislators we should always be looking for ways to make government smaller and smarter. The program this bill authorizes will ensure we are using our resources as efficiently as possible and ensuring the most vulnerable children in our state are receiving the highest quality of care that we are able to provide for them. I am excited that Winnebago County, an area I represent, would be able to participate in the pilot program if this bill becomes law.

Thank you for your time today. I welcome any questions you may have.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0273/1
EAW:emw

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 657**

January 29, 2018 - Offered by Senator FEYEN.

1 **AN ACT** *to renumber and amend* 48.23 (4); *to amend* 48.20 (8) (a), 48.21 (3) (d),
2 48.213 (2) (d) and 48.23 (3); and *to create* 48.233 of the statutes; **relating to:**
3 the appointment of counsel in a child in need of protection or services
4 proceeding, providing an exemption from emergency rule procedures, granting
5 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This substitute amendment removes the prohibition on assigning counsel to a parent in a child in need of protection or services (CHIPS) proceeding, and creates a five-county pilot program run by the state public defender to provide counsel for such a parent.

Under current law, a parent is entitled to legal representation in a proceeding under the Children's Code involving a contested adoption or an involuntary termination of parental rights. In all other cases under the Children's Code, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint counsel to any party to the proceeding except that the juvenile court is prohibited from appointing counsel in a CHIPS proceeding for any party other than a child, an Indian parent, or an Indian custodian. This prohibition was ruled unconstitutional by the Wisconsin Supreme Court in *Joni B. v. State*, 202 Wis. 2d 1

(1996), on the grounds that the prohibition constitutes a violation of the separation of powers doctrine of the Wisconsin Constitution. This substitute amendment eliminates the statutory prohibition placed on a juvenile court regarding appointment of counsel for adult parents other than Indian parents or Indian custodians in a CHIPS proceeding.

This substitute amendment also creates a pilot program for the provision of counsel to a parent in a CHIPS proceeding in Brown, Outagamie, Racine, Kenosha, and Winnebago counties. The substitute amendment grants the SPD rule-making authority to implement the pilot program and gives certain exceptions to allow the pilot program rules to be promulgated through emergency rule making. The pilot program sunsets on June 30, 2021. Also, the SPD and the Department of Children and Families must each submit a report by January 1, 2021, to the Joint Committee on Finance and each house of the legislature regarding the costs of and data from implementing the pilot program created under the substitute amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.20 (8) (a) of the statutes is amended to read:

2 48.20 (8) (a) If a child is held in custody, the intake worker shall notify the
3 child's parent, guardian, legal custodian, and Indian custodian of the reasons for
4 holding the child in custody and of the child's whereabouts unless there is reason to
5 believe that notice would present imminent danger to the child. The parent,
6 guardian, legal custodian, and Indian custodian shall also be notified of the time and
7 place of the detention hearing required under s. 48.21, the nature and possible
8 consequences of that hearing, the right to counsel under s. 48.23, the right to present
9 and cross-examine witnesses at the hearing, and, in the case of a parent or Indian
10 custodian of an Indian child who is the subject of an Indian child custody proceeding,
11 as defined in s. 48.028 (2) (d) 2., the right to counsel under s. 48.028 (4) (b). If the
12 parent, guardian, legal custodian, or Indian custodian is not immediately available,
13 the intake worker or another person designated by the court shall provide notice as
14 soon as possible. When the child is 12 years of age or older, the child shall receive

1 the same notice about the detention hearing as the parent, guardian, legal custodian,
2 or Indian custodian. The intake worker shall notify both the child and the child's
3 parent, guardian, legal custodian, or Indian custodian.

4 **SECTION 2.** 48.21 (3) (d) of the statutes is amended to read:

5 48.21 (3) (d) Prior to the commencement of the hearing, the court shall inform
6 the parent, guardian, legal custodian, or Indian custodian of the allegations that
7 have been made or may be made, the nature and possible consequences of this
8 hearing as compared to possible future hearings, the right to counsel under s. 48.23,
9 the right to present, confront, and cross-examine witnesses, and, in the case of a
10 parent or Indian custodian of an Indian child who is the subject of an Indian child
11 custody proceeding under s. 48.028 (2) (d) 2., the right to counsel under s. 48.028 (4)
12 (b).

13 **SECTION 3.** 48.213 (2) (d) of the statutes is amended to read:

14 48.213 (2) (d) Prior to the commencement of the hearing, the court shall inform
15 the adult expectant mother and the unborn child's guardian ad litem ~~shall be~~
16 ~~informed by the court~~ of the allegations that have been made or may be made, the
17 nature and possible consequences of this hearing as compared to possible future
18 hearings, the right to counsel under s. 48.23, and the right to present, confront, and
19 ~~cross-examine witnesses, and the right to present witnesses.~~

20 **SECTION 4.** 48.23 (3) of the statutes is amended to read:

21 48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings under~~
22 ~~s. 48.13, at~~ At any time, upon request or on its own motion, the court may appoint
23 counsel for the child or any party, unless the child or the party has or wishes to retain
24 counsel of his or her own choosing. ~~Except as provided in sub. (2g), the court may not~~
25 ~~appoint counsel for any party other than the child in a proceeding under s. 48.13.~~

1 **SECTION 5.** 48.23 (4) of the statutes is renumbered 48.23 (4) (a) and amended
2 to read:

3 48.23 (4) (a) If a child or a parent under 18 years of age has a right to be
4 represented by counsel or is provided counsel at the discretion of the court under this
5 section and counsel is not knowingly and voluntarily waived, the court shall refer the
6 child or parent under 18 years of age to the state public defender and counsel shall
7 be appointed by the state public defender under s. 977.08 without a determination
8 of indigency. If the referral is of a child who has filed a petition under s. 48.375 (7),
9 the state public defender shall appoint counsel within 24 hours after that referral.
10 Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to
11 represent the child in any appeal brought under s. 809.105 unless the child requests
12 substitution of counsel or extenuating circumstances make it impossible for counsel
13 to continue to represent the child.

14 **(b)** In any situation under sub. (2), (2g), or (2m) in which a parent 18 years of
15 age or over or an adult expectant mother is entitled to representation by counsel;
16 counsel is not knowingly and voluntarily waived; and it appears that the parent or
17 adult expectant mother is unable to afford counsel in full, or the parent or adult
18 expectant mother so indicates; the court shall refer the parent or adult expectant
19 mother to the authority for indigency determinations specified under s. 977.07 (1).

20 **(c)** In any other situation under this section in which a person has a right to be
21 represented by counsel or is provided counsel at the discretion of the court,
22 competent and independent counsel shall be provided and reimbursed in any
23 manner suitable to the court regardless of the person's ability to pay, except that the
24 court may not order a person who files a petition under s. 813.122 or 813.125 to
25 reimburse counsel for the child who is named as the respondent in that petition.

1 **SECTION 6.** 48.233 of the statutes is created to read:

2 **48.233 Five-county pilot program.** (1) No later than July 1, 2018, the state
3 public defender shall establish a pilot program in Brown, Outagamie, Racine,
4 Kenosha, and Winnebago counties to provide counsel to any nonpetitioning parent
5 after a petition has been filed under s. 48.255 in a proceeding under s. 48.13.

6 (2) This section does not apply to a proceeding commenced under s. 48.13 after
7 June 30, 2021.

8 (3) The state public defender may promulgate rules necessary to implement
9 the pilot program established under sub. (1). The state public defender may
10 promulgate the rules under this subsection as emergency rules under s. 227.24.
11 Notwithstanding s. 227.24 (1) (a) and (3), the state public defender is not required
12 to provide evidence that promulgating a rule under this subsection as an emergency
13 rule is necessary for the preservation of the public peace, health, safety, or welfare
14 and is not required to provide a finding of emergency for a rule promulgated under
15 this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules
16 promulgated under this subsection remain in effect until June 30, 2021.

17 (4) By January 1, 2021, the department and the state public defender shall
18 each submit a report to the joint committee on finance, and to the chief clerk of each
19 house of the legislature for distribution to the appropriate standing committees
20 under s. 13.172 (3), regarding costs and data from implementing the pilot program
21 under sub. (1).

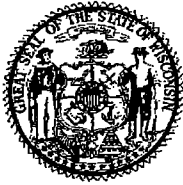
22 **SECTION 7. Fiscal changes.**

23 (1) PROGRAM OPERATION. In the schedule under section 20.005 (3) of the statutes
24 for the appropriation to the public defender board under section 20.550 (1) (a) of the

1 statutes, the dollar amount for fiscal year 2018-19 is increased by \$739,600 for
2 implementation of the pilot program under section 48.233 of the statutes.

3

(END)



Chambers of

Judge Jason A. Rossell

Chief Judge of the 2nd Judicial District

Circuit Court, Branch 2

Kenosha County Courthouse, Room 124

912 56th Street

Kenosha, Wisconsin 53140-3747

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Clerk

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Written Testimony

Of

Jason A. Rossell

Chief Judge 2nd Judicial District

Kenosha County Circuit Court Branch 2

For Informational Purposes

Senate Committee on Judiciary and Public Safety, Sen. Van Wanggaard, Chair

2017 Senate Bill 657

Counsel for CHIPS Parents

I sincerely appreciate the opportunity to appear and testify regarding providing counsel to CHIPS parents. My name is Jason A Rossell; I am the Circuit Court Judge for Branch 2 of Kenosha County Circuit Court and a Member of the Wisconsin Judicial Committee on Child Welfare. I have been assigned to the Juvenile Court for the past 6 years. I am writing on my own accord and I do not represent the entire judiciary.

The statutes currently prohibit the Court from appointing counsel to parents in CHIPS (child in need of protection or services) cases. This portion of the statute, however, was invalidated by the Supreme Court in Joni B v. State, 202 Wis. 2d 1, (1996). Since that time, Courts have in various degrees and methods appointed counsel for parents in these cases. Many of the parents involved in CHIPS cases are in poverty and unable to afford counsel at their own cost. Therefore, many parents go through the system without representation.

When I first came to the Juvenile Rotation, my belief was that parental representation slowed down cases and made things more difficult. I was wrong. At the time in Kenosha, appointment of counsel was left up to the Judge's discretion and parents were rarely told they could ask for an attorney. After being informed of the research regarding parent representation causing increased permanency and having further discussions, we started informing the parents about their right to ask the Court for an appointed attorney.

In Kenosha over the last four years, we have tracked our Child Welfare data to determine the effectiveness of practices and procedures. Between October 2012 and December 2016, Kenosha County increased the percentage of parents appointed attorneys in CHIPS matters from 31% to 54% and reduced the average numbers of days in care for children from 423 days to 280 days. This data is indicative of national studies reviewing the effectiveness of parent's counsel. Research has shown that quality and effective legal representation, starting at the initial

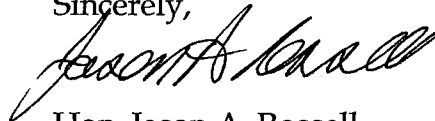
proceeding, can lead to increased permanency for children and ultimate cost savings for the state and counties.¹

In addition to tracking the outcomes, Kenosha County Circuit Court has provided training to attorneys regarding these cases to improve their abilities to represent parents. We have seen many benefits including fewer case adjournments and more time effective hearings. Judges, prosecutors, and caseworkers are not put in the position of providing legal advice to pro se parents. Most importantly, we have seen that having an attorney with his/her interests in mind allows for better parental engagement with caseworker and services. They can focus on the plan of getting their children home instead of the legal process. This is invaluable to our system.

Like many areas in Child Welfare, the Court must be careful to appropriately use the County's resources and for that reason, Kenosha has not been able to appoint counsel in every case. The proposed pilot project with accompanying data review will hopefully demonstrate that effective parental representation will save money and resources for both the State and the Counties.

Thank you for your time and consideration.

Sincerely,



Hon. Jason A. Rossell

¹ See *Representation of Parents and Children in Abuse and Neglect Cases: The Importance of Early Appointment*, Judge Leonard Edwards (Spring 2012); *Court-Based Child Welfare Reforms: Improved Child/Family Outcomes and Potential Cost Savings*, Elizabeth Thornton (August 2012); and *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, Mark E. Courtney, Jennifer L. Hook, and Matt Orme (February 2011).

One study in Washington State found that providing representation to parents where the attorneys had limited caseloads and were highly trained as part of a Parent Representation Program (PRP) resulted in the following outcomes for children and families:

- Children were reunified with their parents 11% faster.
- Reunification with a parent occurred approximately one month sooner, saving an estimated \$374 per child in foster care maintenance payments. If all children in the study who ultimately reunified with a parent were able to reunify one month sooner, the public would have saved \$3 million annually.
- Children were adopted 104% faster and entered guardianship 83% faster. For these children in counties with PRP who could not be reunified with a parent, their adoptions and guardianships were accelerated by approximately one year when compared to children in counties without PRP.



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Senate Committee on Judiciary & Public Safety
Senate Bill 657
Tuesday, January 30, 2018

Chairman Wanggaard and members,

Thank you for having this hearing on Senate Bill (SB) 657. The State Public Defender would like to thank Representative Ballweg for her dedication to this issue and for introducing this legislation along with Senator Feyen following the work of the Speaker's Task Force on Foster Care co-chaired by Representatives Snyder and Doyle.

SB 657 creates a pilot program to provide legal representation for parents who are the subject of a Children in Need of Protection and Services (CHIPS) petition or order. The pilot program would operate for three years and includes five counties - Brown, Outagamie, Winnebago, Racine, and Kenosha. These counties were identified based on the following reasons:

- They do not regularly appoint private attorneys at county expense to represent parents in CHIPS proceedings.
- They have a sufficient number of CHIPS filings to be able to determine if the pilot program has been successful.
- The SPD offices that provide representation in those counties have the infrastructure and staffing to participate in the pilot with minimal disruption to the office and criminal justice system.

Essentially, the bill provides funding to free up enough staff attorney time to handle the additional cases by appointing some of their current caseload to certified assigned counsel attorneys. It also provides funding for the cases in which there are two parents involved in a case. In that situation, SPD staff could represent one parent but the other parent would present a conflict of interest and would need representation from an assigned counsel attorney.

Currently, SPD is only authorized to provide representation for any child who is the subject of a Juvenile in Need of Protection and Services (JIPS) order, CHIPS order, or is accused of having committed a delinquent act.

Specifically regarding representation in CHIPS cases, SPD is only authorized to provide representation for children. In the very limited circumstance of an Indian Child Welfare Act case, SPD is able to provide representation for the parent as well.

Before 1995, SPD was authorized to provide representation for both the parent and child in a CHIPS proceeding. The 1995 state budget, in an effort to reduce expenditures, removed the ability for the SPD to represent parents in the CHIPS proceeding. As we will go into shortly, this change carried cost implications at other levels of state government and we have also seen an increase in the number of termination of parental rights cases in which the SPD provided representation. There was an 81% increase in TPR filings the year following this change, and there has been a 340% increase in TPR

filings in the last two decades. One of the issues driving that increase is a lack of representation for the parent in the CHIPS proceeding, which makes it more difficult for the parent to meet conditions of the CHIPS order.

In an effort to determine whether the savings anticipated by the 1995 budget were realized, SPD looked at the assumed savings in the 1995 budget bill of \$1.5 million. Based on the actual decrease in the number of cases and the average cost of a CHIPS case, the realized savings was closer to \$340,000. Conversely, the increase in costs related to TPR cases in the first year was approximately \$147,000.

Although the net result was a savings, it was significantly less than anticipated in terms of direct spending on SPD representation, and the change also arguably drove additional costs elsewhere in the system. Aside from the fiscal impact, the resulting shift to increased TPR filings has a direct impact on children, parents, and the foster care system.

The statutory intent of Chapter 48 in general can be found in s. 48.01, which makes clear that the ultimate goal of the Children's Code is to determine the best interests of the child. The first stated goal is to assist parents in changing any circumstances in the home that might harm the child. The next sentence states that courts should recognize they have the authority not to reunite the child with their family. In sum, while making appropriate allowance for either temporary or permanent removal of the child, the assumption is that the best interests of the child should first be to preserve the unity of the family.

When viewed in that context, a Child in Need of Protection and Services order can be seen as an opportunity to assist parents in fulfilling their responsibilities. A CHIPS petition and order can highlight the need and opportunity for a parent to succeed. In setting the conditions in the CHIPS order, the court will look at parental needs and order education, training, and services as appropriate. Sometimes the order is achievable by a conscientious parent dedicated to meeting the terms. Other times, individual conditions in the order are simply unachievable. We have seen conditions placed on parents such as required drug or alcohol treatment within 6 months. Unfortunately, the only available treatment program had a 9-month waiting list. Although this is an extreme example, it demonstrates one of the consequences of not providing counsel for parents in CHIPS proceedings. Counsel can work with clients to determine their individual needs and ability to obtain the services necessary. While drug treatment, employment, education, and parenting skills are frequent subject of a CHIPS order, each parent has a varying degree of need and ability to fulfill those requirements.

A parent appearing in court on a CHIPS proceeding without counsel has a difficult time understanding the proceeding generally and a difficulty assessing his or her ability to comply with the court order before it is set. An attorney can advocate to clarify the client's needs for the court and can explain to the client the practical implications of complying with a court order. Something as simple as trying to balance maintaining a job while attending treatment or classes during normal working hours can often be enough to set up parents to fail before they've even had an opportunity to make a good faith effort to comply with the CHIPS order.

Since the 1995 change, there have been a few counties that regularly appoint an attorney at county expense for the parent in a CHIPS proceeding. Other counties will make appointments occasionally.

With the help of the Wisconsin Counties Association, SPD was able to gather data from 41 counties about the hourly rate and total amounts paid for these appointments. The average hourly rate from these counties was \$71 per hour, and the average annual expenditure was \$49,000.

One of the advantages of Wisconsin's indigent defense system is that it is a statewide agency employing both staff attorneys and assigned counsel (to handle conflict-of-interest cases). In the context of representing parents in CHIPS proceedings, conflicts of interests are common because each parent and child may have a different perspective and desired outcome regarding the court hearing. SPD can provide the representation, removing this responsibility from the county, and SPD can assign separate and independent attorneys for the parents and children in a CHIPS proceeding. SPD representation also allows for more consistent training and practices statewide.

There are a few states that provide representation for parents at the CHIPS stage of juvenile proceedings. Unfortunately there have not been many studies which have looked at the impact of providing representation. There are two, however, that I wanted to highlight for the task force.

First, Washington State began a pilot project around 2000 in a few counties and has expanded the project now to cover about half of the state. In 2012, a study was conducted by the University of Chicago and University of Washington on the efficacy of representing parents. The study was commissioned with an assumption that providing attorneys for the parent increased the amount of time it took for the child to reach permanency. What the study found was just the opposite. In counties in which parents were represented, children reached permanency 11% faster for reunification, 83% faster for guardianship, and 104% faster for adoption. Overall, the average number of days to reach permanency dropped from 344.8 to 251.9. Additionally, there was an 11% increase in reunification rates, a 102% increase in guardianship rates, and an 83% increase in adoption rates. Finally, Washington noted a 44% decrease in the number of termination of parental rights petitions filed. If permanency in placement is the best outcome for the child, these results suggest that representing the parent in the CHIPS proceeding not only gets there faster, but at a greater rate of permanency.

Second, a 2008 survey in New York State showed a savings in the foster care system of about \$2.3 million in the 9 months between July 2007 and March 2008. Their findings also showed a 10% reduction in re-entry of children to foster care in cases where the parent was represented.

These two key studies show both a fiscal and a social benefit to providing representation for parents in CHIPS proceedings.

Since the ability for SPD to represent parents was removed, we have heard from many legislators about the impact that the change has had on families statewide. Interest in reauthorizing SPD to provide this representation usually is limited by the potential fiscal impact. With more data becoming available and a growing national network looking at this issue, we are getting more information to be able to quantify the positive impact this change would have. A recent re-estimate on the cost to have SPD provide this representation statewide came up as approximately \$4 million. This is the cost both to hire additional staff attorneys as well as funding to pay for the increased number of cases appointed to assigned counsel and costs for ancillary expenses such as discovery, experts, and transcripts.

Studies like those from Washington and New York allow us to help identify potential cost offsets such as the following:

- A reduction in the number of TPR cases in which the SPD provides representation as well as the savings to corporation counsel, district attorneys, and courts from not having to handle as many TPRs.
- As a result of a faster path to permanence, a reduction in the number of days a child is placed in foster care.

January 29, 2018

- A reduction of expense at the county level by not having to appoint counsel for parents in all CHIPS cases.

Thank you again for this opportunity to testify in support of Senate Bill 657. By providing consistent, effective representation for the parents at the CHIPS proceeding, the chances for more timely and permanent placement increase measurably.



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MIKE GONRING
Executive Director

GUARDIAN AD LITEM OFFICE

TO: SENATE COMMITTEE ON JUDICIARY AND PUBLIC SAFETY
FROM: Deanna Weiss, Supervising Attorney, The Legal Aid Society of Milwaukee, Inc.,
Guardian ad Litem Division
DATE: January 30, 2018
RE: Support for Senate Bill 657- Relating to a parent's right to counsel in child in
need of protection or services (CHIPS) proceeding

Good morning Chairmen Wanggard and members of the committee. My name is Deanna Weiss and I am an attorney with the Legal Aid Society of Milwaukee in the Guardian ad Litem Division. Legal Aid contracts with Milwaukee County to provide guardian ad litem services for Milwaukee County Children's Court. Legal Aid employs twelve attorneys to cover ten courts daily in Milwaukee County. Legal Aid represented the interests of approximately 3300 children in 2017.

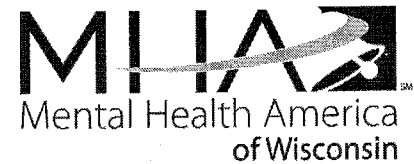
A guardian ad litem is a lawyer appointed to represent the interests of children in need of protection and services (CHIPS) cases, termination of parental rights cases and guardianship cases. In CHIPS cases we represent the interests of children under the age of twelve. We are the voice of the abused and neglected children in the court system.

In Milwaukee County parents are appointed lawyers by the county in CHIPS proceedings. The appointment of lawyers has enabled the court system to run more efficiently than it might otherwise given the high volume of cases. A lawyer is able to assist a parent in understanding the law, the court system, and importance of cooperating with social services.

Why is this important to a lawyer who represents the interests of children? It may be in their best interests to reunify them with parents, or it may be in their best interests given their trauma to seek alternative long term caregivers such as relatives, guardians, or adoptive parents. Engaging a parent early in the process leads to achieving permanency sooner and it assists in getting services in place for a child at the soonest possible moment. When children receive services such as medical evaluations and therapy early in the process, they are able to stabilize and recover from their trauma. Once children heal from their trauma they are able to develop emotionally, physically, and intellectually.

Section 48.01 (1) (a) notes that the goal of the chapter is to protect children and by strengthening and preserving the family where possible and recognizes that the courts should assist parents in changing any circumstances in the home which might harm a child. The appointment of lawyers for parents furthers this purpose. It also allows for changes to be made sooner which ultimately lowers the financial burden while ensuring the well-being of children.

Thank you for the opportunity to testify. We appreciate the attention the Committee and the Task Force is giving to abused and neglected children in this state.



Testimony on SB657

Senate Committee on Judiciary and Public Safety

Shel Gross, Director of Public Policy

Mental Health America of Wisconsin

Mental Health America of Wisconsin (MHA) supports SB657. For more than 10 years MHA's Strong Families/Health Homes (SF/HH) program has served parents with mental illnesses who have dependent children in the home. Many of these parents have had their children removed, often due to the impact of the parental mental illness on the ability to parent. SF/HH provides support to the parent, facilitates access to treatment for both the parent and the child, teaches parenting skills and supports the parent's recovery. The program has been very successful, and with regard to families involved with the child welfare system has achieved an 86% reunification rate.

Parents whose children have been removed from the home can be viewed in a negative light. But parents who are experiencing mental illnesses are not "bad" they are "ill". It is clear from our experience that with the proper supports they can and do recover and can be good parents. This is the outcome I believe all of us want to see.

MHA believes that the ability for the parent to have a public defender will facilitate the parent's involvement in the proceedings and will ensure that the parent's needs, as well as the child's needs, will be addressed to the long-term benefit of both.

We urge your support of this bill.

Thank you.

www.mhawisconsin.org