

MEMORANDUM

To: Legislative Committee on Adoption

From: Judith Sperling-Newton

Date: January 19, 2005

I have had several conversations with Steve Hayes about the work of the Committee, and I want to thank you for your thoughtful deliberations in an effort to improve permanency for many Wisconsin children. Steve and I most recently spoke today, and he filled me in on some of the issues you will be discussing at Friday's meeting. I'd like to share some of my thoughts with you at this time:

1. I support the elimination of jury trials in TPR actions. Let me tell you briefly about a situation in which our law firm is currently involved in Dane County. To make a very long story short, the respondent birth father in a TPR action, in which the birth mother's rights were irrevocably terminated in Kentucky, is opposing the termination of his parental rights. The birth father is Egyptian, was recently arrested in Ohio on drug charges, and was deported to Egypt in December. He will never be permitted entry into the United States, because he is a twice-convicted felon. His Public Defender has requested a jury trial for which the taxpayers of Wisconsin will pay his fees. The proposed adoptive parents are the child's permanent guardians, and they will pay our fees. Dane County will pay the *guardian ad litem's* fees. If the TPR is denied, the child will remain in the impermanence of guardianship, although his birth grandfather has threatened to try to send him to the birth father in Egypt. This birth father has never been in Wisconsin, was in this country illegally when the child was conceived, committed many crimes while residing in the United States, is now in another country, and is in permanent deportation status. Yet, he has the right to request a jury trial and to expect Wisconsin citizens to pay his attorney's fees. The cost of jury trials is prohibitive to many prospective adoptive parents (often the children's foster parents), to Wisconsin taxpayers, and to children. I hope you will recommend a change in the law.

2. I support the provision you are considering to allow for cross-examination of *guardians ad litem*. These individuals need to be held accountable for their positions, and because the children whose rights they represent cannot supervise their behavior, it is appropriate that the trial court do so. Often judges have no idea what has been done by a *guardian ad litem* in preparation for taking his/her position, and children deserve to have zealous counsel representing their best interests. In many instances, this can be assured only if there is a provision in the law for the *guardian ad litem* to be cross-examined.

3. I endorse the Committee's creating a paternal registry in this state. Again, I will not repeat what I'm certain you have heard from others, but I'll simply urge you to consider the benefits to both children and putative fathers. While the draft you are currently considering would not be my first choice, I believe we need to move forward in Wisconsin, and I hope you will recommend adoption of this or a similar provision.

Again, I appreciate your efforts on behalf of Wisconsin children. I would be happy to provide additional information to the Committee, if you feel I could be helpful. Thank you.