



Quarterly Report of the
Parent Representation
Task Force

June 2019

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INTRODUCTION

The Parent Representation Task Force, established in 2012, is a collaborative Court Improvement Program effort between the Judiciary, Mississippi Department of Child Protection Services, Casey Family Programs, Kellogg Foundation, University of Mississippi School of Law, Mississippi College School of Law Mission First Legal Aid Office, the American Bar Association, Mississippi Center for Legal Services, Mississippi Attorney General's Office, Office of State Public Defender and the Mississippi Judicial College.

History

As of 2018, 10 counties provided attorneys to represent indigent parents at the beginning of cases in which abuse and neglect allegations could result in termination of parental rights. Three initial pilot sites which began in 2012 are Adams, Forrest, and Rankin counties. Harrison County became a site in 2013; Hancock County, in 2015; DeSoto County in 2016; and Hinds and Bolivar counties in 2017. The Task Force identified Jackson County and Pearl River County as new sites for parent representation programs in Youth Courts in May 2017 and collaborated with Casey Family Programs, Kellogg Foundation, and county Boards of Supervisors regarding funding and implementation. All site counties have provided matching funding.

In fall 2017 and early 2018, Jackson and Rankin counties began expansion of services, adding a social worker to each parent representation team. Pearl River County also became an expansion site in 2018. Forrest County expanded representation from only the zero-to-three population to all children and families entering that system. Casey Family Programs provided matching funding for the expansions.

In 2018-2019, six counties independently relying on county funds implemented parent representation for indigent, custodial parents: Lafayette, Lauderdale, Lamar, Lee, Warren and Yazoo. Before 2012, only Madison County historically appointed attorneys for every case regardless of indigence status, usually the custodial parent, at the Shelter Hearing. However, both parents are provided an attorney if there are enough certified parent attorneys available and there is a conflict between the parents. The appointment stays in place through the termination of parental rights, TPR, process if the case reaches that stage. Parents can hire their own lawyer if they choose to do so.

As of 2019, 17 counties provide parent representation prior to termination of parental rights. At TPR, an attorney is appointed for parent(s) in all 82 counties.

In 2018, the Parent Representation Task Force became institutionalized through the Mississippi Children's Justice Commission as a multidisciplinary tool for accountability and consistency across the parent representation sites. The Parent Representation Task Force continues to meet quarterly and a Strategic Leadership Team was created in 2019 to provide direction for expansion of the program.

Standards for Parent Representation

The Parent Representation Task Force developed and adopted Standards for Parent Representation and Standards of Practice for Attorneys Representing Parents. The Office of State Public Defender requires data from parent representation sites based on "ABA Indicators of Success" system infrastructure: Appointment of Counsel, Timely Appointment, Caseload Control, Continuity of Representation, Multi-disciplinary staffing and Training and Technical Assistance. Attorneys are trained multiple times annually. Parent attorneys participated in trainings in 2016-2019 through ABA Parent Attorney Training and Children and the Law Conferences and/or National Association of Counsel for Children and multiple training opportunities through the Office of State Public Defender.

¹ See Appendix 5: Mississippi Certification Performance Standards for Performance of Attorneys Representing Parents in Child Protection or Termination of Parental Rights Proceedings under the Youth Court Act.

Benefits of the Program to Children/Families and the State

The foremost benefit is to the families and children of Mississippi. In courtrooms where parents are represented:

- Parents are better informed of their rights and responsibilities to engage the system to accomplish reunification in a timely manner under federal mandates;
- Parent attorneys assist in finding services and treatment programs to meet the needs of the parents, which hastens the permanency process;
- CPS staff are held accountable and the quality of their work has improved across the pilot sites;
- Alternative plans (i.e. relative care or adoption) are pursued more quickly due to more timely representation identifying those parents who are unwilling or unable to engage the systems to accomplish reunification;
- Children spend less time in foster care;
- Children experience fewer moves and placements, thereby reducing trauma; and
- Critical reunification or other permanency for foster children is accomplished more quickly.

The primary benefit for the children is their opportunity to avoid foster care or to exit foster care and reunify in a timely manner with safe and nurturing parents. If reunification is impossible, the children may receive more rapid permanent placement with concerned caretakers or other family members beyond the nuclear family. Ultimately, the opportunity to develop a sense of place and family for the remainder of their minority is provided.

While this reduction of time in the system and the state's custody benefits the child, the state significantly benefits fiscally. Since 2017, the pilot counties experienced a significant drop in foster care. The pilot counties census of children in care in March of 2017 was 2,794. Eighteen months later, that figure dropped to 2,194 -- a reduction of 600 children. If those 600 children had remained in MDCPS custody, the cost in foster care board payments alone would have been a minimum of \$420,000 a month or \$5,040,000 per year. Direct state cost would have been \$3,534,000 per year just for those pilot counties. Not included are the ancillary costs of social worker and staff time. While other initiatives of the Department played a role in the reduction, parent representation was the significant factor.

BEST PRACTICES AND RESEARCH

Nationally

Other state studies reveal that there is substantial cost savings to state government due to reductions of time children and youth spend in care.

An **Oregon** study concluded that maintaining children in foster care is expensive. It pointed out that monthly foster care maintenance payments, Medicaid costs, social worker and service provider salaries and administration costs all contribute to this expense. Effective parent representation programs that reduce the number of children entering foster care and shorten the length of time in foster care by achieving permanency will substantially reduce these hard costs.

A study by the state defender in **Washington** found that such programs can potentially save the state millions of dollars. The study included some 8,000 children, and found that if the children were reunited with family or achieved other permanency just one month earlier on average, the state would have saved \$3 million in maintenance payments alone, not including social worker and service provider salaries.

² Board payments made to a foster family range from \$696.90 to \$876.60 per month based on the age of the child. Special needs children receive up to \$981.30. The calculations are based on the lower amounts rounded to \$700 per month. The true average payment is significantly higher.

In **California**, a study compared participating counties and non-participating counties. The study found that counties with parent attorneys had five times the rate of non-participating counties in reducing removals, reducing foster care time, hastening permanency to reunification or adoption. The study found that a 10% increase in reunification could save an estimated \$12 million dollars a year. Advocates found that government could save about \$7,625 per child per year. Mississippi's savings per child may be lower, but at even a fourth of that sum, the amount for the 4,542 children in our state's care as of June 17, 2019, translates to approximately \$9 million.

New York concluded that its parental representation sites prevented the need for foster care for many children, reduced the length of stay of other children and reduced the rate of children re-entering the system. Fifty percent of clients avoided foster care entirely. Where foster care occurred, statistics show that children in families with representation stayed in foster care an average of five months, compared to a one year average for non-representation. Further, children of parents with representation reentered the foster care system after their case was closed at a rate of 1% compared to 15% statewide. Thus, for every child prevented from entering foster care, or for every child whose length of stay is reduced by months, the system can save thousands of dollars. In fact, parental representation in New York City has saved the foster care system more than \$30 million.

Locally

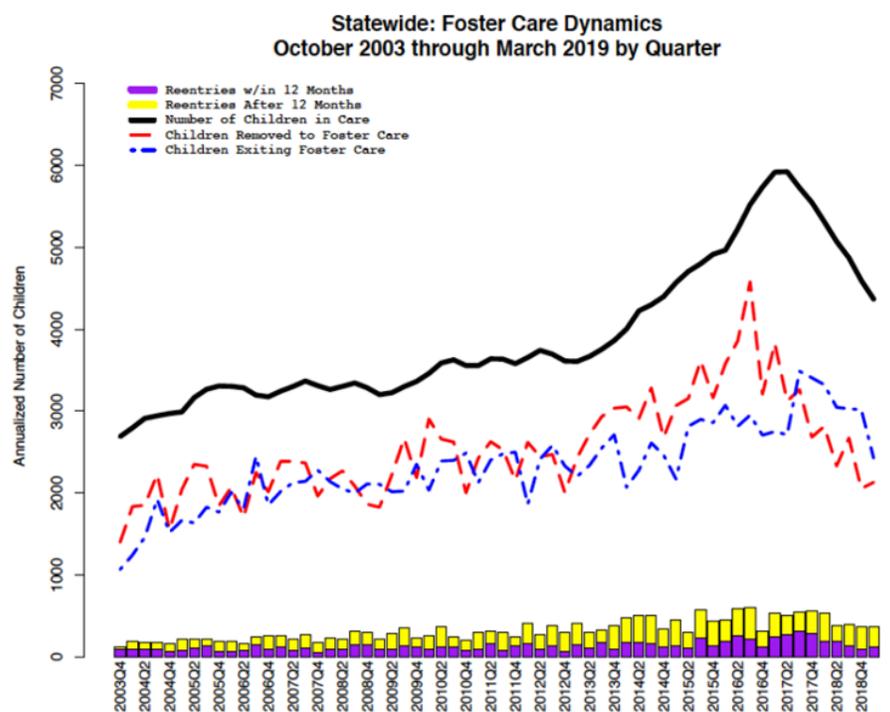
As preliminary data indicates, Mississippi has experienced a 28% decrease in the number of children in foster care over the last 24 months ending March 2019. Parent Representation in seventeen sites has contributed to educating legislators regarding benefits of parent representation. Judicial training occurred regarding the trauma of removal on children, and the need to ensure reasonable efforts were conducted to prevent removal or, if after removal, to obtain reunification to achieve the goal of safely maintaining children at home when possible. The Court Improvement Program, which includes parent representation, is a catalyst for the cultural shift from unnecessary removal to prevention services in the home when child can remain safely.

Data Trends from October 2003-March 2019 (Chart 1)

(presented by Christopher Church, Staff Attorney for the CHAMPS Clinic at USC School of Law)

The number of children in care present a 23% decrease from March of 2017 through September of 2018.³ Exits are below children coming into care and stabilized. The length of stay impacts the numbers. In 2016, there was a spike in removals. In

CHART 1



2018, the State is back to 2008-2009 numbers of children in care. The reduction continues in Hancock and Rankin Counties with a 50-55% reduction. Both counties experienced judicial changes. Hancock is the higher of the removal rates and has room to come down more. DeSoto had a significant reduction, but already had low removal rates. Hinds County had a significant decrease in removals.

While other states either have stagnant (Louisiana) or increasing (Georgia, Alabama, South Carolina, and the national average) removal rates, Mississippi is experiencing a reduction of children in foster care.

Targeted Counties for Expansion based on the Data

- Lauderdale is the eighth largest county foster care population with 133 in custody. This county is not far from its historical data, uses relative placement more than the statewide rate, and has a significant amount of exits and unifications.

³ See Chart 1.

- Jones is the 10th largest county with a low removal rate. Their reported numbers of children in foster care fluctuate with seemingly little statistical reason. In 2014, Jones County reported 19 children while in 2018, 104 were removed. Further information is required to understand what is going on with MDCPS and judiciary.
- Lamar is the 11th largest foster care population currently, increasing from 34 to 117 due to judicial change. The removal rate doubled. While there are significant amounts of relative placements and unification, opportunity to decrease numbers in care in this county are present.
- Pontotoc is 19th with a foster care population of 75. The removal rate doubled here as well. There are a fair amount of quickly timed adoptions as well as a large number of exits. Opportunities to decrease numbers in care are present in this county.
- Lee increased foster care population to 200 in 2017.
- Perry is a disproportional foster care population. The overall county population is tiny, but the foster care population is over 50.

CURRENT EFFORTS

Legislative Action

Legislation was passed in 2016 granting authority to youth court judges to appoint attorneys for parents where allegations of abuse or neglect are made. Legislation passed in 2017 moved parent representation from a task force to the Office of State Public Defender beginning July 1, 2017. The Legislative appropriation in 2017 was \$200,000 for the purpose of maintaining the current pilot sites and expansion into one or more additional sites. The 2018 Legislature appropriated \$200,000 for parent representation. The appropriation and increased to \$278,500 in 2019.

Three Branch Government Convening Regarding Parent Representation

On February 27-28, 2018, the Parent Representation Task Force finalized plans for the Three Branch Government Convening sponsored by the Kellogg Foundation at the Mississippi Capitol. In attendance were legislators, Casey Family Program representatives, Kellogg Grant Manager, the Chief Justice of the Mississippi Supreme Court, Justice of the Supreme Court, Court of Appeals Judge, Office of State Public Defender representatives, Department of Child Protection Services representatives, CIP Director, Youth Court Judges, Jurist in Residence and parent representatives.

The program highlighted the critical needs of expansion of the parental representation to other counties in the state and the crucial role played by each branch. The program opened with a recitation of the journey traveled by unrepresented parents in abuse and neglect circumstances in Mississippi court systems when their children are removed. The journey included the obstacles encountered and the fundamental unfairness of the possibility of loss of such a foundational right of parenting due to the denial of legal representation at such a critical moment in the family's life. Another speaker, a former foster child, spoke of the excruciating journey through the eyes of the child. Others spoke of the present state of the effort in Mississippi and the amazing success of the past few years, lifting Mississippi from the only state in the nation not providing any type of representation to model systems in several counties. The Commissioner of Child Protection Services added the wholehearted support of that executive agency to the effort. The Mississippi plan was presented advising of the commitment of our partners to continue personnel and fiscal investment in the program provided the state is on board in continuing to appropriate funds to supplant grant funds as Mississippi gradually expands. Legislators were educated on the fiscal need in the present and looking to the future. The entire experience was well received and we believe educated and advanced the prospects of parental representation in Mississippi. Christopher Church, Law and Policy Director, University of South Carolina School of Law, Children's Law Center, Director of Capacity Building Center for Courts, and Data Technology for Casey Family Programs, presented current data on children removed from homes in Mississippi, the impact of placement into foster care for Mississippi financially, and current timeframe for reunification.

The Kellogg Foundation sponsored the Second Three Branch Government Convening on March 7, 2019, with a larger attendance by legislators. Data showing a significant reduction in the number of children in foster care among counties with

parent attorneys was presented: 55% reduction in Hancock County (continuing to over 59.3% reduction by March 2019) and 55% reduction in Rankin County (continuing to 62.5% by March 2019).

Resource Counsel

Casey Family Programs funded the establishment of a statewide Resource Counsel, through the Mississippi College School of Law and Mission First Legal Aid Office, to serve and assist all parent representation attorneys and teams throughout the state. The Resource Counsel implemented monthly Virtual Training Meetings in June 2018 to provide technical assistance and practice tips to public defenders and volunteer attorneys serving as parent representatives in child protection matters in Youth Court. In 2018-2019, there was an increase in TA requests from court staff and judges, including court administrators. Some of the issues involved time of appointment, indigence determinations, county reimbursement when there is no dedicated parent representation program, and one-on-one education to the bench on best practices in their courts for family engagement and embracing new dynamics with newer parent representation sites or shifts in parent representation sites. Resource Counsel conducted information sessions remotely via Adobe Connect to provide TA assistance to attorneys across the state and provided TA assistance for two matters on appeal. Resource Counsel assisted in curriculum development for parent attorney trainings and conferences in the state and conducted five court site observations with reviews in DeSoto, Jackson, Hancock, Hinds and Rankin counties.

Resource Counsel also worked with courts establishing reunification celebration events and worked with parent attorneys to gather positive reunification stories to share in the local press.

The Resource Counsel Project engaged agency executives to brainstorm about models for increased parent representation and expansion opportunities under the new Title IV-E fund availability. During the state team planning meeting in Washington DC, an idea was born to establish a parent advisory board, similar to the foster youth advisory group and foster parent advisory group the agency currently has in place. The plan is to develop a parent advisory board over the next few months.

Additionally, the Resource Counsel Project engaged Access to Justice as we explore the narrative around civil legal aid as a tool of prevention. The Resource Counsel Staff Attorney was mobilized to work on collateral legal issues for vulnerable families in areas of housing, expungements, and government benefits 2018-2019. By 2020, the goal is to provide additional focus on collateral areas, while continuing to roll out an interdisciplinary parent representation program model in Rankin.

County Initiatives

The Parent Representation Task Force prioritizes faster permanency by reducing significantly the amount of time a child spends in foster care.

A significant safe reduction of the number of children in foster care in Mississippi occurred from March 2018-March 2019. The Agency reports a significant increase in adoptions finalized. Progress in Reduction of Children in Custody reported by Christopher Church, Fostering Court Improvement, to the Parent Representation Task Force, 2018 Mississippi Legislative members and staff, and restated at the Mississippi Children’s Justice Commission on June 8, 2018, follows:

“As of March 31, 2018, there were just under 5,000 children in foster care in Mississippi, a 17% decrease over the past 12 months. That is the first reduction in the number of children in foster care in Mississippi in over a decade. We are confident parent representation has played an important role in helping the local courts and CPS staff decrease the number of children unnecessarily removed from their parents.” Further, Mr. Church stated this decrease was “nothing short of amazing”.

The data⁵ indicates that congregate care is following the same downward trend as the removal trend.

⁴ This figure is a result of a personnel issue and other contributing factors outside of parent representation.

TABLE 1

Percent Change In Foster Care Population		
Presented to PR Task Force		
	From 2017 to 2018	From 2017 to 2019
Statewide	-23.00%	-27.80%
Adams	-10.00%	
Bolivar	-44.00%	-47.30%
DeSoto	-21.00%	-33.00%
Forrest	-24.50%	-37.80%
Hancock	-19.70%	-59.30%
Harrison	-6.50%	-20.70%
Hinds	-29.00%	-40.20%
Jackson	-23.90%	-26.50%
Lamar	-7.70%	48.90% ⁴
Lauderdale	-2.20%	20.20%
Madison	-17.40%	-23.90%
Pearl River	-17.30%	-50.00%
Rankin	-49.30%	-62.50%
Warren	-13.60%	-19.10%

Training for Youth Court Judges and Certifying Parent Attorneys

While new Youth Court judges met for training during February of 2019, all Mississippi Youth Court judges and referees meet annually, in September, for a seminar. Attendees immersed themselves in information regarding the Family First Initiative, maximizing Title IV-E funding through compliance in court orders, Children's of Mississippi Safe Center, delinquency and status offense cases, MYCIDS, and ethical considerations. The Mississippi Department of Child Protection Services presented a mock training session. The mock session highlighted the complimentary nature between the youth court trainings and the MDCPS safety training.

The Office of State Public Defender holds a certification training for parent attorneys three times a year. Each year, there is a certification training in the northern, middle, and southern part of the state in order to better serve the entirety of Mississippi.⁷ The October 2018 training session focused primarily on law, procedure, and advocacy for pre-adjudication issues, adjudication hearings, and post-adjudication. The rest of the training included unique issues in youth court and a spotlight on resources including Case Law Update, Relevant Authority, Mission First Resource Project, and the Family First Prevention Services Act.

TABLE 2

Training Date	Number
08/23/2018	14
10/11/2018	15
12/26/2018	1
2018	30
02/12/2019	1
04/11/2019	1
04/12/2019	6
06/21/2019	25
2019	33

TABLE 3

Certified Parent Rep Attorneys	Number
That serve multiple counties	6
That serve one county	41
That serve statewide	2
That have no designation	3
That serve at least one county in pilot program	18
That do not serve one of the pilot counties	29
Total	47

TABLE 4*

County	Sole	Shared
Adams	1	
Claiborne		1
Clay		1
Copiah	2	
DeSoto	3	
Forrest	1	
Hancock	2	
Harrison	2	
Hinds	2	1
Humphreys		1
Itawamba		1
Jackson	3	
Jefferson		1
Lafayette	1	
Lamar	1	
Lauderdale	1	
Lee		2
Leflore	1	
Lowndes	1	1
Madison	1	1
Marion	1	
Monroe		1
Neshoba		1
Newton		1
Noxubee		1
Oktibbeha		1
Pearl River	2	
Pontotoc		1
Prentiss		1
Rankin	1	1
Sunflower		1
Tishomingo	1	
Union	1	1
Warren	5	1
Washington	1	1
Webster		1
Yazoo	2	

The June 2019 training session provided information on advocating at shelter hearings for safety, services, and department efforts; cross-examining the worker; ethical dilemmas in representing parents; client issues and conceptions in youth court; and updated legislation and case law.

Multi-disciplinary Training and Support for Parent Attorneys

Multi-disciplinary training and support for parent attorneys are widely available and utilized by all sites in Mississippi. Starting in June 2017, OSPD began providing in-state Parent Attorney Training Programs. The programs consist of 6.5-7.5 hours of training of Continuing Legal Education focused on skills development and motion practice. Each attorney that completed one of these programs earned their annual parent representative certification as required by Mississippi Code Section 43-21-201.

The first program was held in Desoto County in June 2017, followed by one in Tunica County in October 2017 and one in Harrison County in April 2018. Overall, 49 attorneys received training from at least one of the programs. These attorneys come from 39 different counties and together have presided over 78% of child removals over the past five years statewide.

In addition to these defender only programs, on January 18 and 19 2018, parent attor-

⁵ See Table 1 and Appendix 1: Quarterly Foster Care Dynamics Data.

⁶ See attendance data in Tables 2-4 and Appendix 3: Certified Parent Defenders Training Data.

⁷ See attendance data in Tables 2-4 and Appendix 3: Certified Parent Defenders Training Data.

*SOLE IS AN ATTORNEY SERVING ONLY THAT COUNTY. SHARED MEANS AN ATTORNEY SERVES THAT COUNTY AND AT LEAST ONE OTHER COUNTY.

neys participated in *Coming Together to Safeguard Mississippi Families: A Multidisciplinary Training Focusing on Safety and Removal*. This training was a first of its kind in Mississippi. Planned in part and produced by OSPD, and sponsored by Casey Family Programs, Administrative Office of Courts, and Mississippi College School of Law, this training brought together 15 teams, each representing a county. Each team contained one parent representative and other child welfare players within their county jurisdiction that included judges, child protection workers, prosecutors, guardians *ad litem*, and court administrative staff. The event was well-attended and each county developed a plan of action to implement parent representation and request funding from their respective Board of Supervisors. The Parent Representation Task Force met following the training to assess the training and participation, and to make plans for additional trainings in other locations.

Court Improvement Program Materials and Resources

In 2018 and 2019, all Youth Court judges and court referees, whether new or already serving, received comprehensive educational materials from the Court Improvement Program. The enhanced resource guidelines aim to improve court practice in child abuse and neglect cases. The primary handbook discusses the judge's role, case flow management, orders, assessment, each step in the youth court process, domestic violence and trauma, alternative dispute resolution techniques, problem solving for dependency cases, and court practices to encourage safe and timely permanency. Extensive benchcards for preliminary protective hearings, adjudication hearings, disposition hearings, review hearings, permanency hearings, and termination of parental rights hearings are included. In addition to these materials, a child safety guide for judges and attorneys regarding safety decisions like safety plans or reunification was included. The child safety guide is now available in an electronic format for easy distribution.

Training in the ABA Child Safety Guide

In May 2019, Robert Wyman Jr., JD, MSW, an attorney consultant with the Judicial Engagement Team of Casey Family Programs, held a training workshop titled *With Teamwork our Kids Win*. The program applied the content in the ABA Child Safety Guide to safety planning and case planning. Safety Assessment is defined through establishing threats, vulnerabilities, and protective factors. Wyman gave an overview of neurology, epidemiology, ACEs, and resilience in tandem to achieve justice beyond a deficit-oriented compliance. He then led the participants through county youth court improvement planning to implement in their respective counties.

Reunification Events

Nationally, reunification celebrations have a long tradition starting with events like the 1999 Families United Celebration in Allegheny County, Pennsylvania. By 2009, this event had over 2,500 participants. Many states like Illinois, New York, and Washington have consistently held reunification celebration events from 2011 to present. These events are fun-filled typically with food and entertainment like music, games, or bounce castles.

Mississippi joined these states in celebrating reunification. In 2016, Forrest County and Hinds County highlighted and honored individuals that navigate the child welfare system in their professional capacities and make heroic strides with reunification efforts. In 2018, Mississippi had its first reunification celebration honoring six reunited families that made significant strides. A buffet and ceremony with symbolic gifts honored these families. In 2019, Governor Phil Bryant issued a proclamation declaring June 2019 as Family Reunification Month.⁸ Hancock County issued a similar proclamation and hosted their first reunification event on June 20, 2019. Forrest County held a reunification celebration picnic on June 25, 2019. The Child Welfare and Child Advocacy Committee of the Mississippi Bar Association, in cooperation with MDCPS, held a *Restoring Hope for Families* Reunification Celebration reception on June 20, 2019, at the Mississippi Bar Center in Jackson, Mississippi. The event celebrated Reunification Heroes from across the state who work to reunite families involved in the child welfare system.

⁸See Appendix 4: Proclamation from the Office of the Governor.

RECOMMENDATIONS

Develop Uniform Collection of Data

Continuing improvement is a priority for consistent data collection for all parent representation sites. As of June 2019, the Parent Representation Task Force requested assistance from Angela A. Robertson, Ph.D., Research Professor and Associate Director, Social Science Research Center, Mississippi State University, to conduct an evaluation of the parent representation project by the January 2020 Legislative Session.

Dr. Robertson will identify and isolate the data highlighting the benefits of parent representation to the children and families but focusing on the fiscal benefits to the state. Dr. Robertson and the Parent Representation Task Force anticipate apparent fiscal savings from faster reunification when reunification is possible and faster final permanency placement.

Access to MYCIDS Solution

Youth Court records are accessible through MYCIDS by judges, prosecutors, and referees. Beyond court staff, the only guardians ad litem, parent defenders, or children's attorneys allowed access are those personally signed off on by their local judges through a signed order according to MS Code § 43-21-261 (2013). The Parent Representation Task Force aims to find a solution that allows access to records for all interested parties. The task force intends to balance the concerns regarding unrelated parties abusing the records and the need to access the records as a procedural right. The software is in-house and owned by the State Supreme Court, so cost is not the issue. The challenges lie in the logistics like access through the machine ID and password.

Title IV-E Funding

The Children's Bureau made changes to Title IV-E. A 50% match is offered for parent attorneys, child attorneys, agency attorneys and GALs, at the eligibility rate of children in care, which is approximately 40% of all children in care. The effect is a 20% match. Judge John Hudson, Resident Jurist, indicated some details need to be determined so that the funds go back into parent representation. Isabel Blanco of Casey Family Programs said Casey is providing a consultant to MDCPS in August 2019 to assist in drawing down the funds.

“Foster Care is one of the most expensive options available to the courts. It is much better to make the small investments on the front end (with parent representation), which saves the state greatly on the back end by reducing the number of days in foster care. But perhaps the most important costs are not the financial costs. They are the toll on human beings.” *Rankin County Court and Youth Court Judge Thomas Broome, co-chair of the Commission on Children's Justice and chairman of the parent Representation Task Force and Council of Youth Court Judges.*

SUMMARY

Why is it Vital to Strengthen and Expand Parent Representation?

Parent Representation strengthens the Due Process of the parents in the prosecution of child welfare cases. Access to an attorney means clarification and better understanding by the parents of their rights in these proceedings. Understanding is a catalyst for engagement with the court and the process of these types of proceedings.

Beyond the societal benefits of the children of Mississippi being in the system as briefly as possible and secure in a stable environment for the duration of their minority, the state has much to gain fiscally. Foster care is the most expensive option the courts have. Costs include payment to the foster families, salaries for the staff that handle the cases and placements, and medical treatment for the children. Parent Representation, as shown by our pilot counties, can greatly reduce removals and time in the state's custody. Less time in the State's care means a significant reduction in expenditures funding foster care.

Recommendations

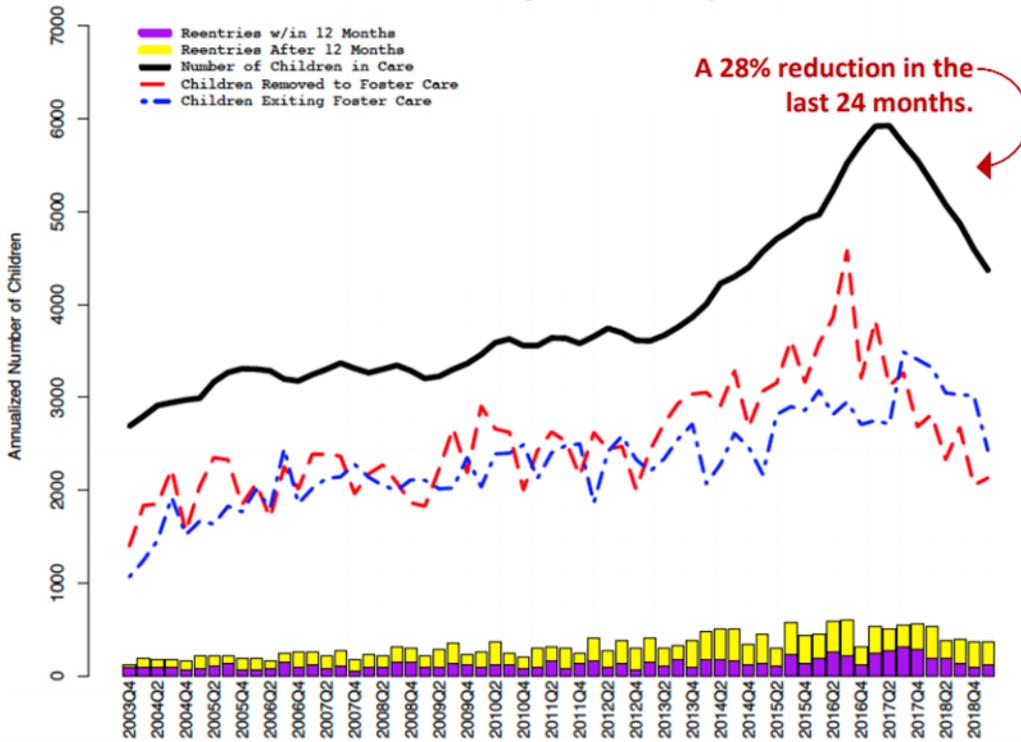
- Develop a Uniform Collection of Data
 - ◇ The more the task force can quantify the benefits of parent representation through reduction of removals and alacrity in permanency placements, the more funding opportunities will be afforded.
- Access to MYCIDS Solution
 - ◇ All officers of the court should have access to the court record through MYCIDS. Right now only judges can grant access through order. Technology changes regarding logistics of access with machine IDs and passwords are possible.
- Title IV-E Funding
 - ◇ Children's Bureau made changes to Title IV-E, and in order to maximize those funds and allocate it to parent representation, Casey is providing a consultant to MDCPS in August.

“The point is these children and their parents are entitled to have a fair hearing of their case and it just doesn't happen when parents are not represented.” *Jess H. Dickinson, Commissioner of Child Protection Services*

APPENDICES

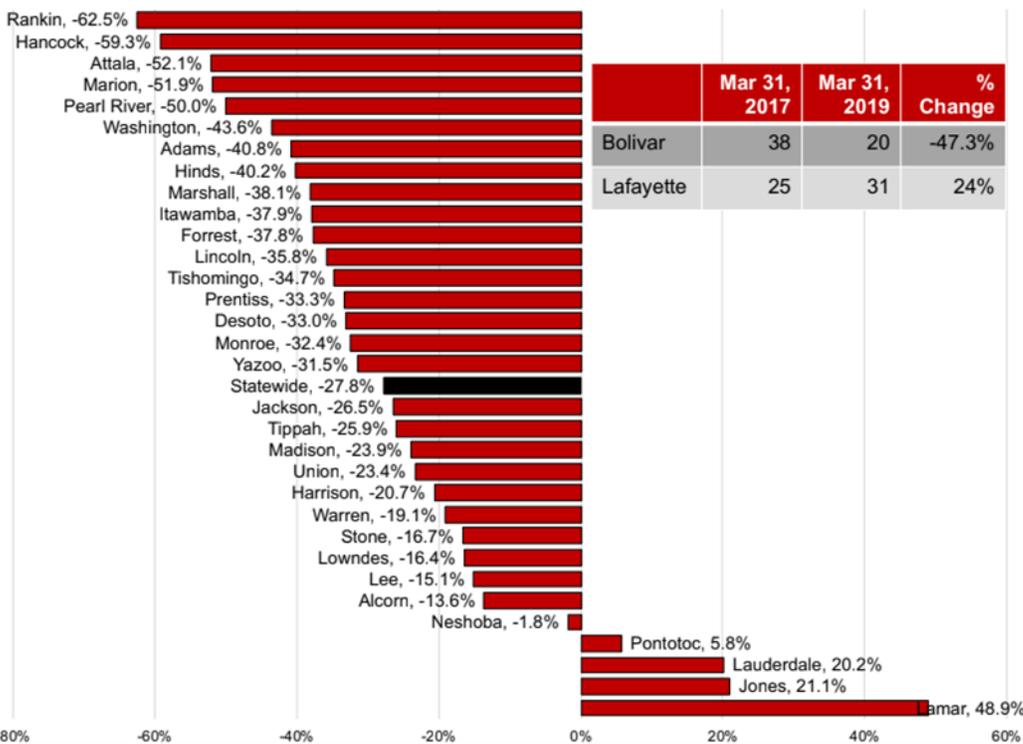
Quarterly Foster Care Dynamics Data

Statewide: Foster Care Dynamics
October 2003 through March 2019 by Quarter

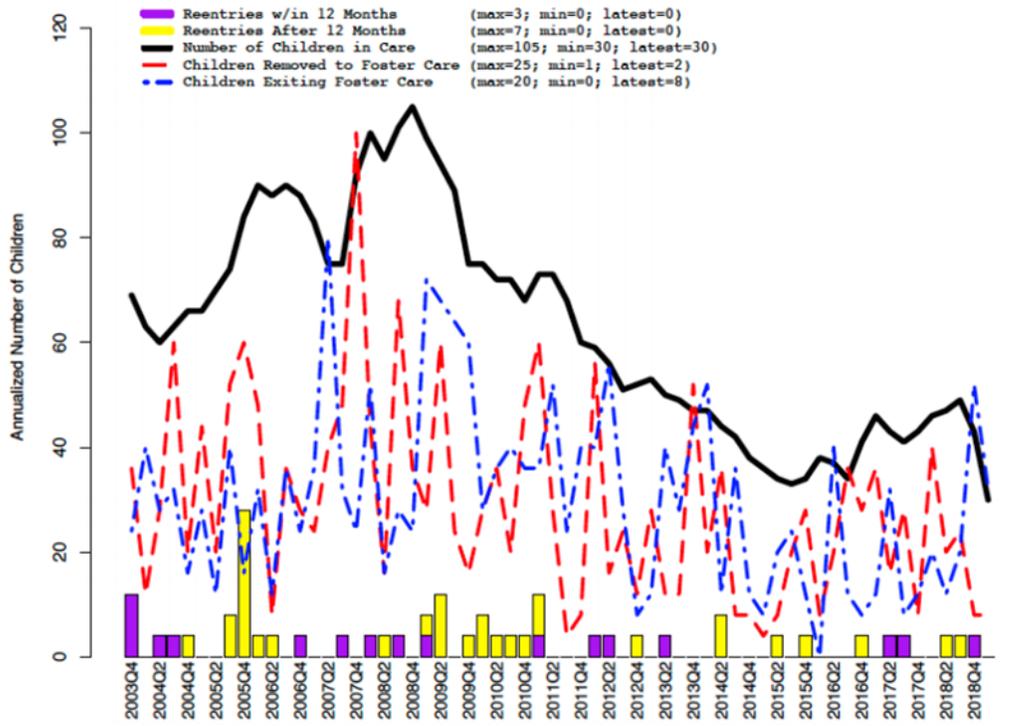


Percent Change in Foster Care Population During Last 24 Months

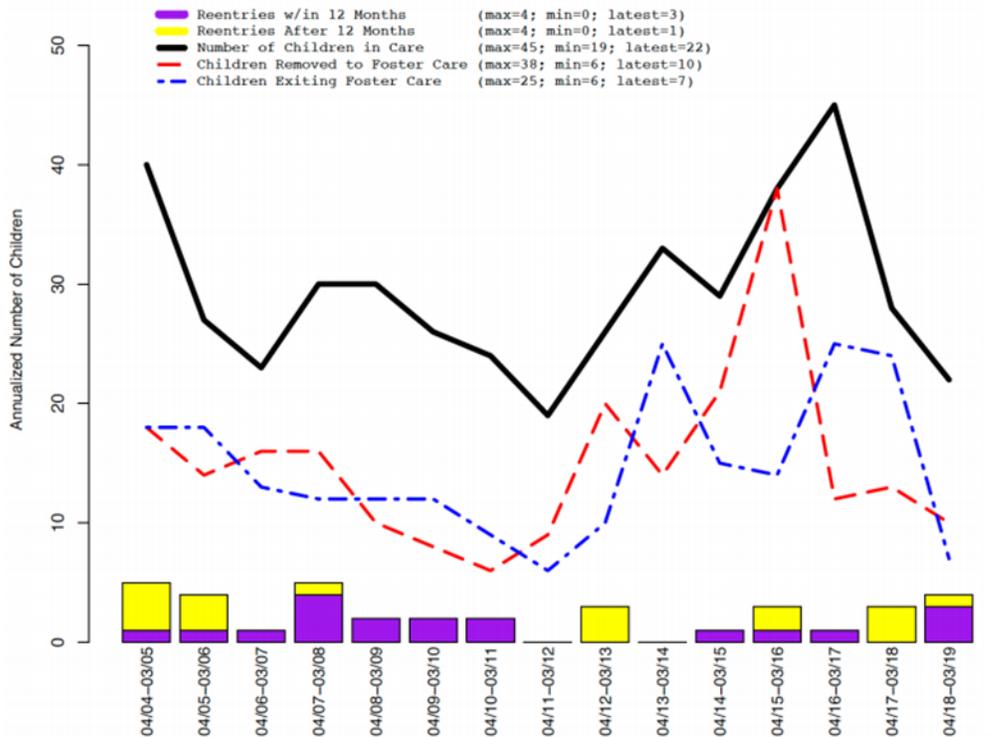
Counties with at Least 45 Children in Care on 3/31/2017



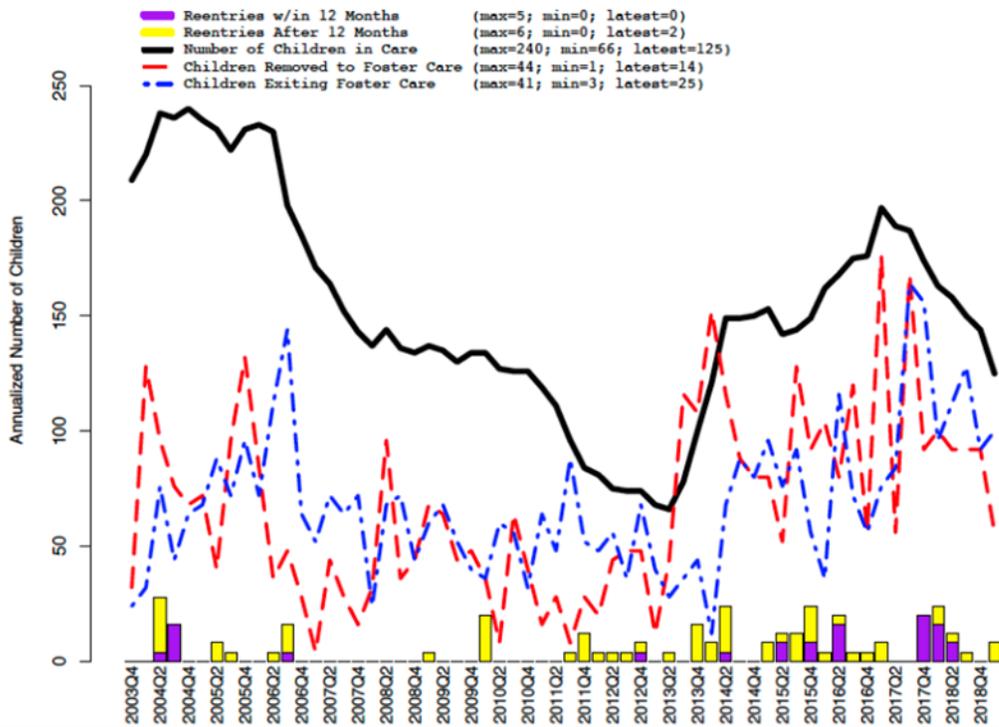
Adams County: Foster Care Dynamics October 2003 through March 2019 by Quarter



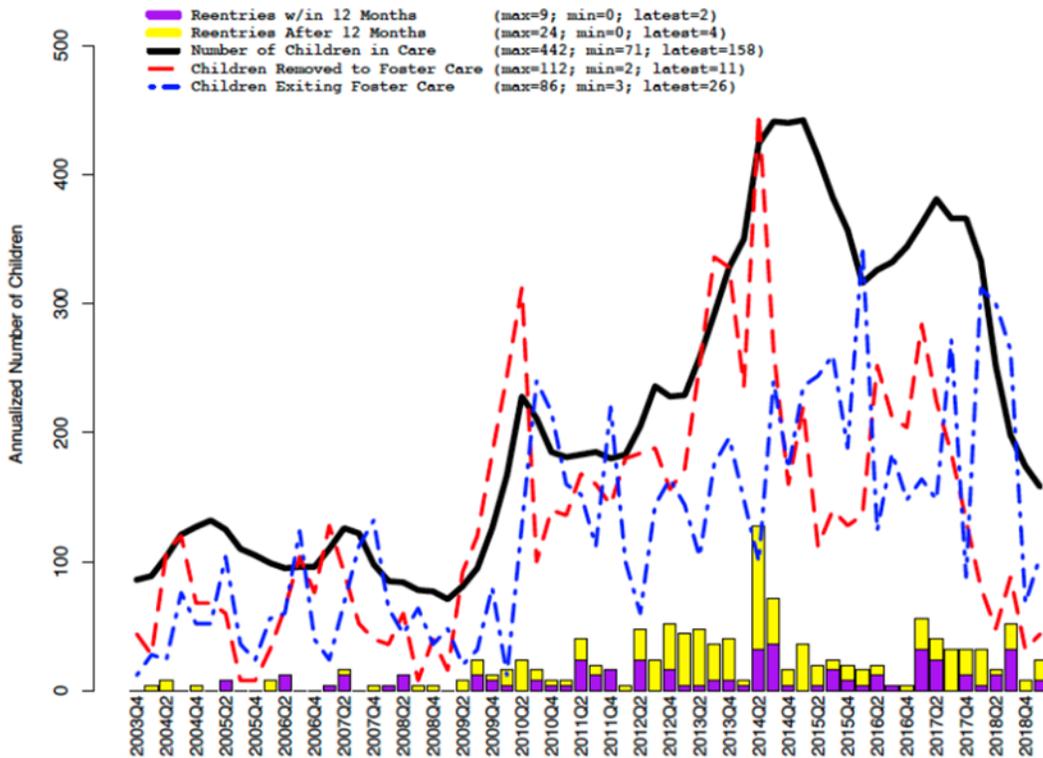
Bolivar County: Foster Care Dynamics October 2003 through March 2019 by Year



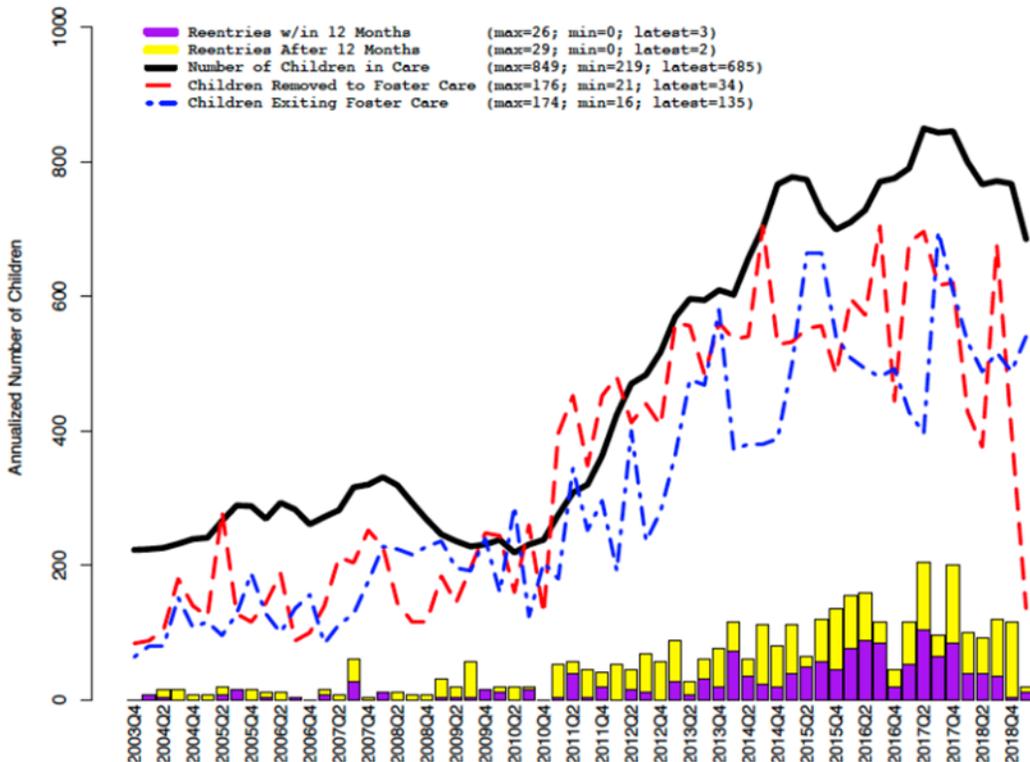
Forrest County: Foster Care Dynamics October 2003 through March 2019 by Quarter



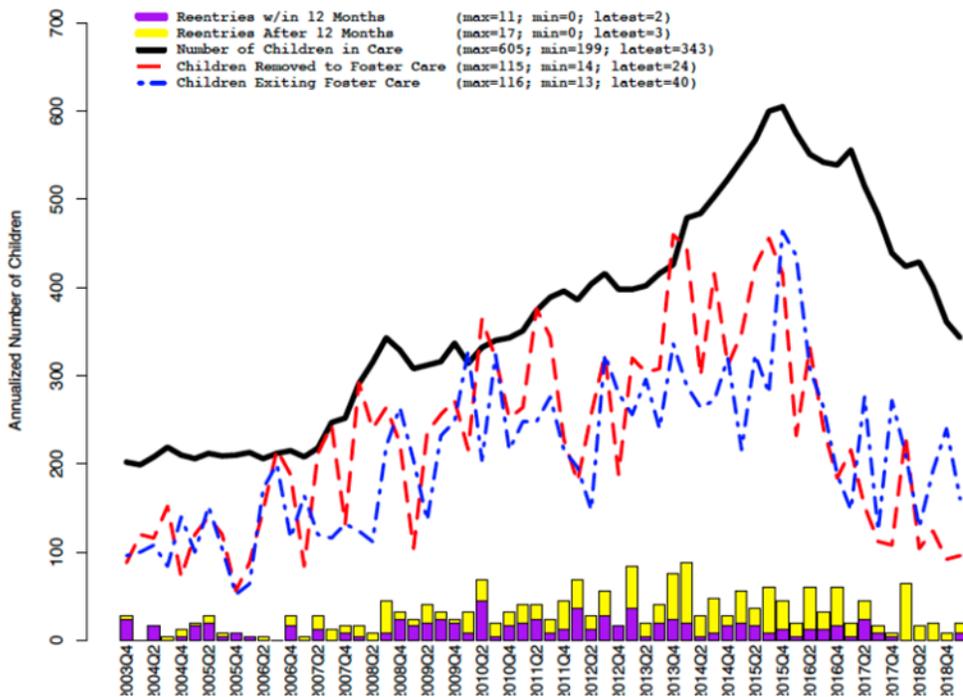
Hancock County: Foster Care Dynamics October 2003 through March 2019 by Quarter



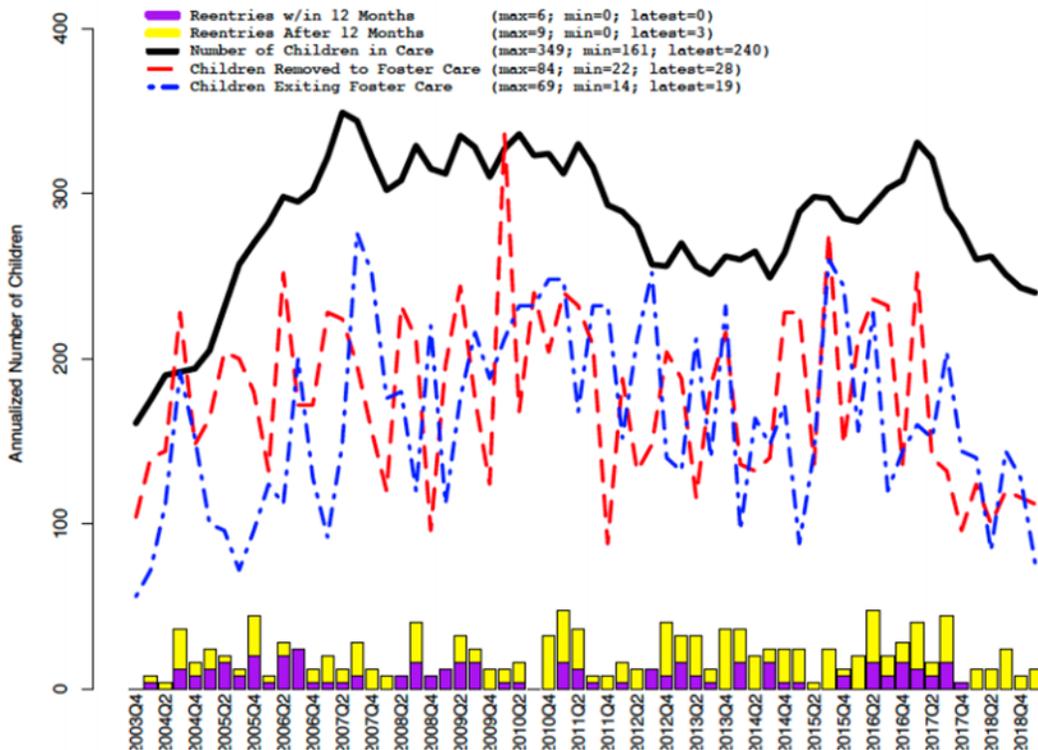
Harrison County: Foster Care Dynamics October 2003 through March 2019 by Quarter



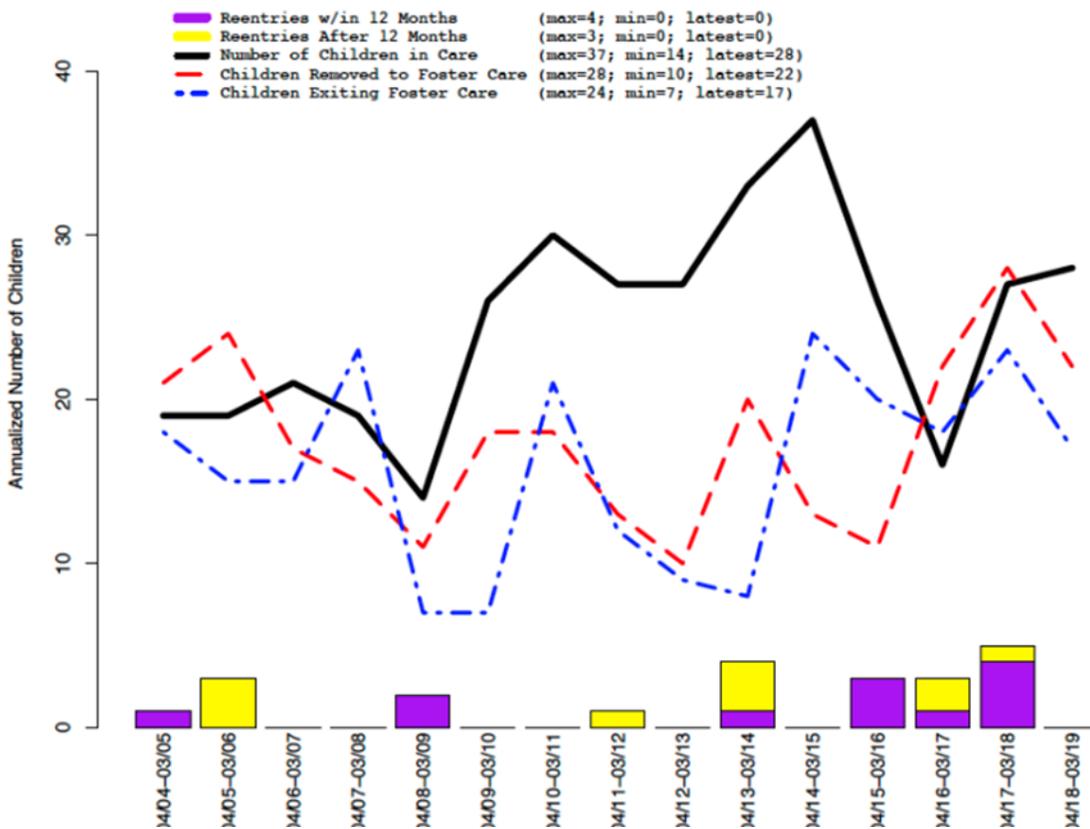
Hinds County: Foster Care Dynamics October 2003 through March 2019 by Quarter



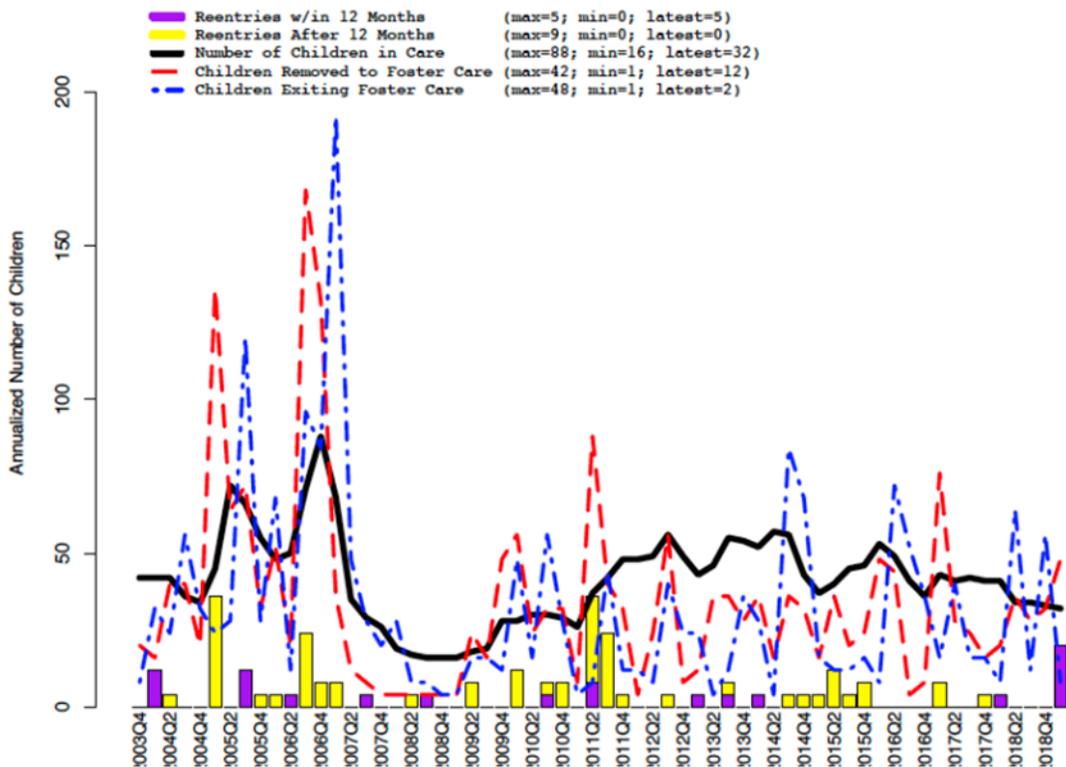
Jackson County: Foster Care Dynamics October 2003 through March 2019 by Quarter



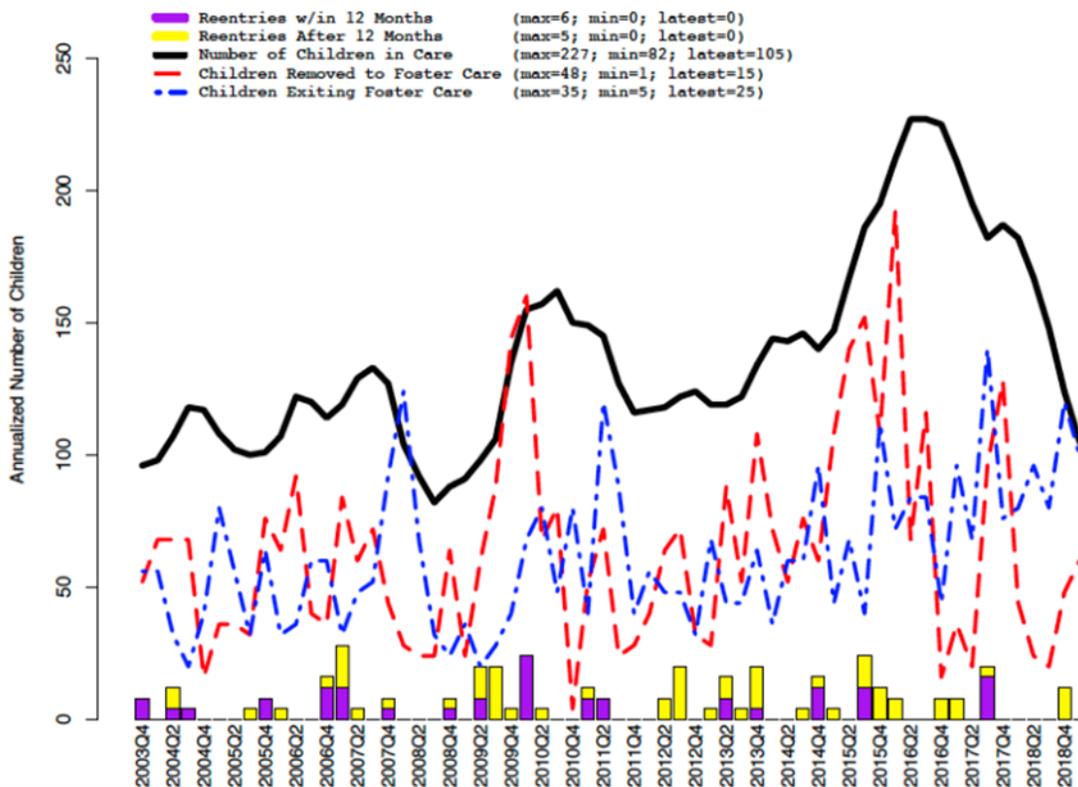
Lafayette County: Foster Care Dynamics October 2003 through March 2019 by Year



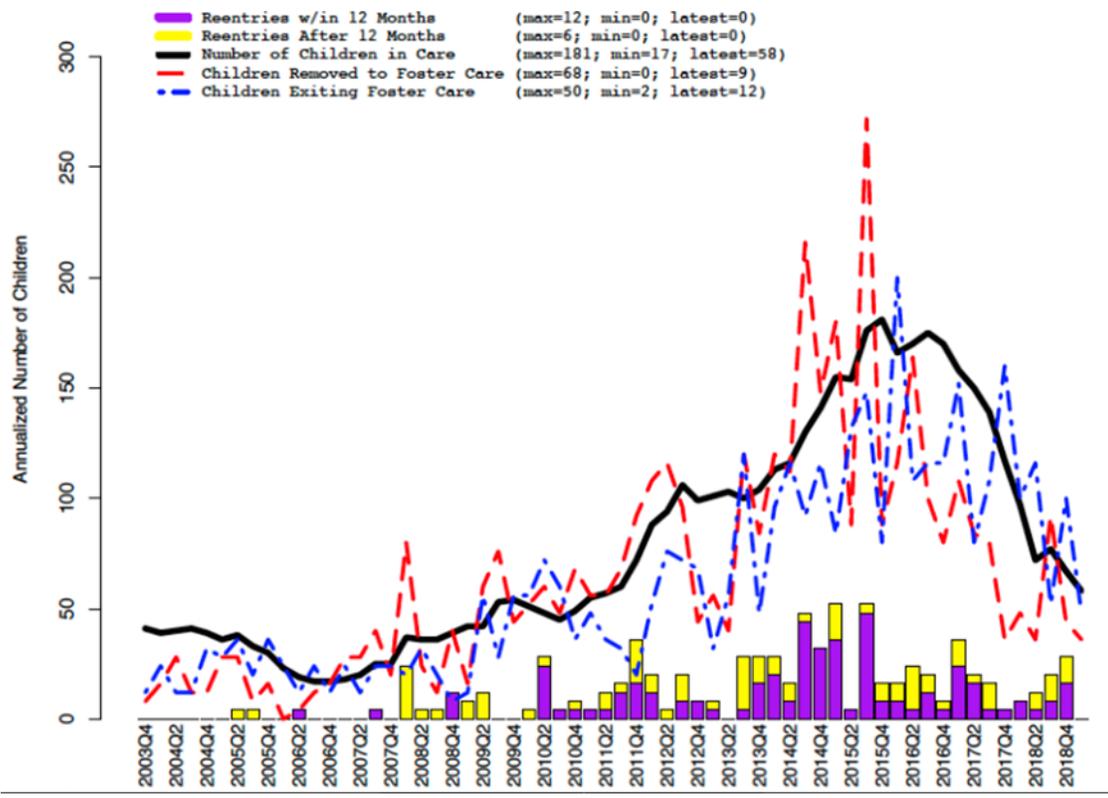
Madison County: Foster Care Dynamics October 2003 through March 2019 by Quarter



Pearl River County: Foster Care Dynamics October 2003 through March 2019 by Quarter



Rankin County: Foster Care Dynamics October 2003 through March 2019 by Quarter



Parent Representation Funding

January 1, 2018 – December 30, 2018

Fund Source	County/Amount/Purpose	Match Funds/County	Totals
Casey Family Programs	To OSPD for Jackson County Expansion \$45,000.00		\$45,000.00
	To OSPD for Forrest County Expansion from 0-3 to all ages \$33,500.00	Forrest County Board of Supervisors \$32,500.00	\$66,000.00
	To AOC for Rankin County Deepening- Social Worker \$16,500.00		\$16,500.00
	To AOC for Mission First Resource Counsel \$75,000.00		\$75,000.00
	To AOC for Pearl River County Expansion \$25,000.00	Pearl River County Board Of Supervisors \$25,000.00	\$50,000.00
TOTAL	\$195,000.00 CASEY	\$57,500.00 MATCH	\$252,500.00
AOC	Rankin County Parent Defender \$40,000.00	Rankin County Board of Supervisors \$30,000.00	\$70,000.00
	Not Allocated \$20,000.00		\$20,000.00
TOTAL	\$60,000.00 AOC	\$30,000.00 MATCH	\$90,000.00
Kellogg Foundation	To OSPD for Hinds County Parent Defenders \$45,000.00	Hinds County Board of Supervisors \$45,000.00	\$90,000.00
	To OSPD for Bolivar County Parent Defender \$12,000.00	Bolivar County Board of Supervisors \$12,000.00	\$24,000.00
TOTAL	\$57,000.00 KELLOGG	\$57,000.00 MATCH	\$114,000.00
MS Legislature to OSPD	Adams County Parent Defender \$12,500.00	Adams County Board of Supervisors \$12,500.00	\$25,000.00
	DeSoto County Parent Defender \$35,000.00	DeSoto County Board of Supervisors \$35,000.00	\$70,000.00
	Forrest County Parent Defenders \$12,500.00	Forrest County Board of Supervisors \$12,500.00	\$25,000.00
	Hancock County Parent Defender \$35,000.00	Hancock County Board of Supervisors \$35,000.00	\$70,000.00
	Harrison County Parent Defenders \$75,000.00	Harrison County Board of Supervisors \$50,000.00	\$125,000.00
	Jackson County Parent Defender \$30,000.00 (Note: \$45,000.00 from Casey through AOC above)	Jackson County Board of Supervisors \$75,000.00	\$105,000.00
TOTAL	\$200,000.00 LEGISLATURE	\$220,000.00 MATCH	\$420,000.00
GRAND TOTAL	\$512,000.00	\$364,500.00	\$876,500.00

Parent Representation Funding						
January 1, 2019-December 30, 2019 (Casey Funds)						
SFY July 1, 2018-June 30, 2019 (Legislative Funds)						
FUND SOURCE	COUNTY/ AMOUNT/ PURPOSE	MATCH FUNDS/ COUNTY	TOTALS 2019 or SFY 2019		TOTALS 2020 or SFY 2020	Comments
Casey Family Programs					Calendar Year 2020	Total Casey Available \$232,000.00
	To OSPD for Jackson County Expansion \$45,000.00		\$45,000.00			OSPD paid \$37,500 (7,500.00 left over)
	To OSPD for Forrest County Expansion from 0-3 to all ages. \$33,500.00		\$33,500.00		To AOC for re-allocation \$33,500.00	\$29,552.00 Casey funds from 2018 returned to AOC
	To AOC for Rankin County Deepening-Social Worker/Parent Mentor \$16,500.00		\$16,500.00		\$16,500.00	\$9,556.25 balance not used as of June 2019. Request to use for PA remainder of calendar year.
	To AOC for Mission First-Resource Counsel \$75,000.00		\$75,000.00		\$75,000.00	
	To AOC for Pearl River County Expansion \$25,000.00	Pearl River County Board of Supervisors \$25,000.00	\$50,000.00		\$25,000.00	
				To AOC Lamar County Board of Supervisors \$9,000.00	NEW \$9,000.00	
UNALLOCATED					\$71,500.00	*July 1, 2019 JIR in Supreme Court Budget
TOTAL	\$195,000.00 2019 Calendar Year	\$25,000.00 MATCH	\$220,000.00		\$232,000.00	

AOC	Rankin County Parent Defender \$40,000.00	Rankin County Board of Supervisors \$30,000.00	\$70,000.00		\$70,000.00	
FUND SOURCE	COUNTY/AMOUNT/PURPOSE	MATCH FUNDS/COUNTY	TOTALS 2019 or SFY 2019		TOTALS 2020 or SFY 2020	Comments
	Not Allocated \$20,000.00		Not Allocated \$20,000.00		Not Allocated \$20,000.00	
TOTAL	\$60,000.00 AOC	\$30,000.00 MATCH	\$90,000.00		\$90,000.00	
Kellogg Foundation	To OSPD for Hinds County Parent Defenders \$45,000.00	Hinds County Board of Supervisors \$45,000.00	\$90,000.00		\$90,000.00	Extension granted through 2020
	To OSPD for Bolivar County Parent Defender \$12,000.00	Bolivar County Board of Supervisors \$12,000.00	\$24,000.00		\$24,000.00	
TOTAL	\$57,000.00 Kellogg	\$57,000.00 MATCH	\$114,000.00		\$114,000.00	
MS Legislature to OSPD \$200,000.00	Adams County Parent Defender \$12,500.00	Adams County Board of Supervisors \$12,500.00	\$25,000.00	MS Legislature to OSPD \$278,500.00	OSPD \$12,500.00	
	DeSoto County Parent Defender \$35,000.00	DeSoto County Board of Supervisors \$35,000.00	\$70,000.00		\$35,000.00	
	Forrest County Parent Defenders \$12,500.00*	Forrest County Board of Supervisors \$12,500.00	\$25,000.00			*Forrest County paying for PR; no reports received; no reimbursement made
	Hancock County Parent Defender \$35,000.00	Hancock County Board of Supervisors \$35,000.00	\$70,000.00		\$35,000.00	
	Harrison County Parent Defenders \$75,000.00	Harrison County Board of Supervisors \$50,000.00	\$125,000.00		\$75,000.00	

	Jackson County Parent Defender \$30,000.00 (Note: \$45,000.00 from Casey through AOC above 2019; Casey funds received by OSPD for Jackson were calendar year 2018. \$75,000.00 was spent which spanned 2 state fiscal years. (Andre))	Jackson County Board of Supervisors \$75,000.00	\$75,000.00			\$37,500.00 from OSPD general funds in 2019 \$150,000.00 county totally funding PR SFY and 2020
FUND SOURCE	COUNTY/ AMOUNT/ PURPOSE	MATCH FUNDS/ COUNTY	TOTALS 2019 or SFY 2019		TOTALS 2020 or SFY 2020	Comments
UNALLOCATED					\$121,000.00	\$195,000.00 Legislature Funding Com- mitted to Trial Court Level Rep- resentation (email 5/23/19)
TOTAL	\$200,000.00 Legislature	\$220,000.00 MATCH	\$420,000.00		\$278,500.00	
GRAND TOTAL	\$512,000.00	\$332,000.00	\$844,000.00			

Certified Parent Defenders Training Data

<u>CERTIFIED PARENT DEFENDERS</u>										
The provisions of Mississippi Code Ann. Section 43-21-201 require that attorneys appointed by a youth court to represent a parent or guardian must complete annual training that is approved by the Mississippi Office of State Public Defender and the Mississippi Commission on Continuing Legal Education.										
FIRST NAME	LAST NAME	ADDRESS	COUNTY OF SERVICE	Bar Roll No.	# of Hrs. Earned	DATE RECEIVED	# of Hrs. Earned	DATE RECEIVED	# of Hrs. Earned	Date Received
Roderick B.	Amos	P O Box 5811 Meridian, MS	Lauderdale	101432	6	6/21/2019				
Robert B.	Andrews	P O Box 366 Port Gibson, MS	Clatsome, Warren Jefferson	99516	6.75	10/11/2018				
Leigh K.	Berry	P O Box 783 Columbia, MS	Marion	3578	6.75	10/11/2018	6	6/21/2019		
Renee H	Berry	P O Box 190 Hazlehurst, MS	Copiah	100435	6	6/21/2019				
Lydia R.	Blackmon	P O Box 2146 Natchez, MS	Adams	8650	6.75	10/11/2018	14.5	4/12/2019		
Shannon	Brooks	253 Pineview Cir Flora, MS	Yazoo	102395	6	6/21/2019				
Carly J	Carman	P O Box 598 Iuka, MS	Tishomingo	105208	6.3	8/23/2018				
Tangi	Carter	301 W Pine St Hattiesburg, MS	Lamar	10846	6	6/21/2019				
Jami	Crews	913 Crawford St Vicksburg, MS	Warren	101724	6	6/21/2019				
Amanda	Evans	761 Esters Blvd Biloxi, MS	Harrison	101718	6	6/21/2019				
Rhonda Saul	Evans	P O Box 81 Columbus, MS	Lowndes	10103	6.3	8/23/2018				
Richard	Flood	123 Hawthorne Vale Ridgeland, MS	Madison	5219	6	6/21/2019				
Renetha	Frieson	P O Box 1811 Greenville, MS	Washington	103005	6.3	8/23/2018				
James L.	Gray	P O Box 1682 Piquette, MS	Pearl River	4981	6.3	8/23/2018				
Jamita Q Elmore	Gilleylen	1025 Walnut St Vicksburg, MS	Warren	104673	6	6/21/2019				
Henley	Price	P O Box 509 Hazlehurst, MS	Copiah	104348	6.3	2/12/2019				
Carlyn	Hicks	151 E Griffith Street Jackson, MS	Rankin	103643	3.25	10/11/2018	14.5	4/12/2019		
Scott J.	Hillery	306 Hwy 11 S, SteE, Piquette, MS	Pearl River	104427	14.5	4/12/2019	6	6/21/2019		
Eugene J	Hoffman, IV		Hancock	104994	6.75	10/11/2018				
Terry	Holtz	4903 Telephone Rd Pascagoula, MS	Jackson	10818	6.75	10/11/2018	6	6/21/2019		
Cynthia C	Howell	P O Box 2411 Madison, MS	Yazoo	105492	6	6/21/2019				
Wilbert L.	Johnson	105 Sharkey Ave Clarksdale, MS		100244	6	6/21/2019				
Angela Turner	Kimbrough	P O Box 1713 Greenwood, MS	Leflore	101011	6.75	10/11/2018	6	6/21/2019		

CERTIFIED PARENT DEFENDERS										
The provisions of Mississippi Code Ann. Section 43-21-201 require that attorneys appointed by a youth court to represent a parent or guardian must complete annual training that is approved by the Mississippi Office of State Public Defender and the Mississippi Commission on Continuing Legal Education.										
FIRST NAME	LAST NAME	ADDRESS	COUNTY OF SERVICE	Bar Roll No.	# of Hrs. Earned	DATE RECEIVED	# of Hrs. Earned	DATE RECEIVED	# of Hrs. Earned	Date Received
Chad	King	745 Avignon Drive Ridgeland, MS	Hinds	105117	6.3	8/23/2018	6.75	10/11/2018	6	6/21/2019
Leslie H.	Lang	P O Box 8559 Biloxi, MS	Jackson	102135	6.75	10/11/2018	6	6/21/2019		
Penny B.	Lawson	1110 Jackson St Vicksburg, MS	Warren	103450	6	6/21/2019				
Ashley R.	Lewis	P O Box 6255 Choctaw, MS	Neshoba & Newton	99868	6.3	8/23/2018				
Brenda	Locke	239 N Lamar St., Ste 601 Jackson, MS	Statewide	10320	6.3	8/23/2018	6	6/21/2019		
Sarah	Mann		Hinds Rankin & Madison	105503	6.75	10/11/2018	14.5	4/12/2019	6	6/21/2019
Sarah C.	McMillin	901 Belmont St Vicksburg, MS	Warren	100310	6	6/21/2019				
Jesse M.	McRight, III	1205 Office Park Rd Oxford, MS	Lafayette	104518	6.3	8/23/2018				
Jennifer	Morgan	311 West South St., Suite B Hernando, MS	Desoto	101964	13	12/26/2018	22.4	4/12/2019		
Amelia Smith	Murphree		Lee, Itawamba, Prentiss, Union, Pontotoc,	102169	6.3	8/23/2018				
Jeremy	Necaise	126 Court St Bay St Louis, MS	Hancock	105504	6.3	8/23/2018	5.75	10/11/2018		
Elizabeth	Porter	301 W Pine St Hattiesburg, MS	Forest	102403	6.75	10/11/2018				
Darnell	Pratt, II	207 Main St Greenville, MS	Humphreys, Washington	104682	6	6/21/2019				
Anna K.	Robbins	P O Box 84 New Albany, MS	Union	104956	6.3	8/23/2018				
Robert B.	Rudder	P O Box 3510 Jackson, MS	Statewide	101088	6.3	8/23/2018				
Hannah	Shirley	520 E Pass Rd. Gulfport, MS			14.5	4/11/2019				
James C.	Smallwood,III	306 Dominion Dr. Ocean Springs, MS	Harrison	8608	6.75	10/11/2018	6	6/21/2019		
Chaka	Smith				14.5	4/12/2019				
Donna S.	Smith	P O Box 189 Columbus, MS	Lowndes, Okibbeha, Clay, Noxabor, Monroe, Lee, Webster	7495	6	6/21/2019				
Cheryl	Sullivan	4903 Telephone Rd Pascagoula, MS	Jackson	5016	6.75	10/11/2018	6	6/21/2019		
Valera	Volkor	1121 Grove St Vicksburg, MS	Warren	105733	6	6/21/2019				
Louis	Walker	5733 Malone Rd Olive Branch, MS	Desoto	104351	6	6/21/2019				

Proclamation from the Office of the Governor

STATE OF MISSISSIPPI

Office of the Governor



PROCLAMATION

WHEREAS, the guiding mission of the Mississippi Department of Child Protection Services is that all children and youth deserve to be safe and protected at home; that children develop best when raised in caring and supported families; and all children and youth deserve and need a permanent, loving family; and

WHEREAS, foster care is to be considered only as a temporary intervention for children who need the safety and security of an out-of-home placement; and

WHEREAS, there are currently about 4,700 children in state custody/foster in Mississippi; and

WHEREAS, there were more than 2,500 children and youth in foster care in Mississippi who were successfully reunified with their families in 2018; and

WHEREAS, for most children in foster care, reunification with their birth family is the first and best option for a permanent and loving home; and

WHEREAS, safely reuniting children with their birth families after receiving foster care services is a major step in overcoming and addressing the trauma caused by the removal of children from their family home; and

WHEREAS, all children need the care, love, security and stability of family unity to provide a solid foundation for personal growth, development and maturity; and

WHEREAS, reunification take significant work, commitment and investment of time and resources by birth parents, family members, family service specialists, foster parents, service providers, attorneys, court and the greater community; and

WHEREAS, the accomplishments of families who overcome an array of challenges to reunify safely and successfully should be supported and celebrated:

NOW, THEREFORE, I, Phil Bryant, Governor of the State of Mississippi, do hereby proclaim June 2019 as

FAMILY REUNIFICATION MONTH

in the State of Mississippi and urge our citizens to join me in this observance.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE in the City of Jackson, on the 29th day of May in the year of our Lord, two thousand and nineteen, and of the Independence of the United States of America, the two hundred and forty-third.

PHIL BRYANT
GOVERNOR

Mississippi Certification Performance Standards for Attorneys

Representing Parents in Child Protection or Termination of Parental Rights Proceedings under the Youth Court Act

Preamble: Attorney's Responsibilities in Parental Representation

These standards apply to attorneys representing parents whose children are involved in child protection proceedings under the Youth Court Act or termination of parental rights proceedings. Competent, diligent, confidential, and professionally ethical parental representation is crucial in safeguarding the fundamental liberty interest of, and the due process protections afforded to, the parent in providing for the care, nurture, welfare, and education of that parent's natural or adoptive child. Thus, an attorney representing a parent in child protection or termination of parental rights proceedings shall comply with all federal and state laws, whether substantive or procedural, applicable to the representation.

A parent's constitutional right to raise his or her child is a liberty interest not only of the parent, but also of the child, that is safeguarded by the Constitution and the courts. Mississippi law presumes that parents are the natural guardians of their children, and that they are equally responsible for their care, nurture, welfare, and education. If the state seeks to interfere with the parent-child relationship, the Constitution mandates: (1) that the state prove parental unfitness as defined by state laws, and (2) that the state follow certain procedures protecting the parents' due process rights.

Attorneys who represent parents in child protective proceedings play a crucial role in safeguarding the parents' liberty interests. Similar to defense lawyers in criminal cases, parents' attorneys prevent the state from overreaching or unjustly removing children from their homes. In situations where temporary removal may be warranted, advocacy by the parents' attorneys may expedite the safe reunification of the family by ensuring the prompt delivery of appropriate services to the family and by counseling the parents about the ramifications of the choices they make.

If the parent cannot care for the child properly, the parent's lawyer may carry out the parent's wishes by arranging for another temporary or permanent legal placement, such as placement with a family member, guardianship, or adoption that will advance the entire family's interests. Additionally, the attorney is expected to comply with these performance standards for parental representation, which comport with the Mississippi Rules of Professional Conduct; the Constitution of the United States; the Mississippi Constitution and state law.

1. Competence

An attorney representing a parent in child protection proceedings or termination of parental rights proceedings shall provide competent representation, which requires possessing the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Because parental representation involves matters with a substantial degree of legal and social complexity, and which may significantly, or even severely, impact a parent's parental rights, an attorney who represents a parent in these proceedings is expected to have expertise in this particular field of law, or to work in consultation with an attorney who has that expertise, as deemed requisite for competent representation. Competent representation, at a minimum, requires:

- Adhering to all relevant training and mentoring requirements before assuming representation of a parent involved in a child welfare or termination of parental rights proceeding.
- Utilizing knowledge of all relevant federal and state laws, rules, regulations, and policies necessary to analyze and assess the factual and legal elements of issues pertaining to all phases of the representation and to provide sound legal advice in resolving or addressing issues.
- Advising the parent of federal and state requirements for achieving permanency for the child in a timely manner.
- Exercising skill in all areas of procedural practice applicable to the proceedings, including that of authorized procedures for obtaining documents and information that may affect the parent's rights and interests, depositions, motions, and hearings.
- Thorough attention to details important toward reaching a favorable outcome for the parent.
- Zealously protecting and pursuing, within the bounds of the law, the parent's rights and interests.

1.1 Education, Training & Experience

Counsel must acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules including but not limited to the Uniform Rules of Youth Court Practice and Youth Court Act. Understand child development principles, particularly the importance of attachment and bonding and the effects of parental separation on young children; and have knowledge of the types of experts who can consult with attorneys and/or testify on parenting, remedial services and child welfare issues. Counsel should be familiar with the child welfare and family preservation services available in the community and the problems the services are designed to address. Counsel should also have a thorough understanding of the role and authority of the Mississippi Department of Child Protection Services (hereafter CPS or department) and both public and private organizations within the child welfare system.

To acquire and maintain the expertise requisite for competent representation, an attorney should annually engage in training and education programs on these standards and current developments in child welfare law and research. Additionally, it is imperative that the attorney recognizes and understands all federal and state laws applicable to parental rights.

Courts should not appoint an attorney to represent a parent in these actions unless that attorney meets the criteria of these standards and has otherwise met all statutorily imposed qualifications for the representation. *See Miss. Code § 41-21-201(3)*. An attorney who represents parents in these proceedings should participate in twelve (12) hours of continuing legal education on related topics approved by the Office of State Public Defender for initial certification and a minimum of six (6) hours of continuing legal education on related topics per year to maintain certification.

2. Scope of Representation

An attorney representing a parent in child protection proceedings or termination of parental rights proceedings shall abide by the parent's decisions concerning the objectives of representation within the limits imposed by law and the attorney's professional obligations.

An attorney who represents a parent in proceedings involving child protection or termination of parental rights should assure the parent of the attorney's obligation to zealously protect and pursue, within the bounds of law, the parent's rights and interests.

Representational roles:

- As an advisor, an attorney provides the parent with an informed understanding of the parent's legal rights and obligations and explains their practical implications.
- As an advocate, an attorney zealously asserts the parent's interest.

Counsel shall not substitute counsel's judgment or opinions in those decisions that are the responsibility of the client. Counsel shall also protect the parent's rights including the right to services, visitation and information and decision making while the child is in foster care or other temporary placement. As a general rule, unless inconsistent with the client's goals, counsel shall strive to work collaboratively to resolve matters. It shall be made clear and unambiguous that parents' attorneys are independent of the court and accountable to their clients.

It is expected that counsel of record shall continue to represent the client from the initial court proceeding through all subsequent dependency and/or termination proceedings until resolution and the case is closed.

3. Conflict of interest

An attorney shall not represent a parent in child protection proceedings or termination of parental rights proceedings if the representation will be adversely affected, or materially limited, by obligations or responsibilities owed to another client or by the attorney's own interests, unless the risks associated with that conflict are reasonably minimal and the parent has given knowing and informed consent after being fully advised of the adverse consequences that could occur from those risks.

Consistent with Rule 1.7, MRPC, each parent should have separate counsel in most situations. However, in certain limited circumstances, an attorney may agree to represent both parents in a proceeding. Because parental representation involves rights and interests of a parent that may be adverse to those of the other parent or another party to the action, an attorney who represents a parent in these proceedings is expected to be vigilant in avoiding any actual or potential conflict of interest that could arise from representing either both parents or one parent and another party to the action.

An attorney should assure that adequate time is dedicated to each case. To maintain a manageable workload, a fulltime parents' representation attorneys should limit their caseload to between sixty (60) and one hundred (100) cases at any given time. Support staff assistance, travel time required if serving more than one county, experience level of attorney and whether the attorney is part of a multidisciplinary

plinary representation team must be considered in determining where in this range an appropriate caseload lies for an individual attorney. A part time parent's representation attorney should limit their caseload proportionately must ensure that other cases do not interfere with counsel's obligation and commitment to Parent Representation Program cases.

Avoiding a conflict of interest, at a minimum, requires:

- Assessing carefully whether dual or multiple representations could impair the attorney's obligation to zealously protect and pursue the separate and distinct rights and interests of each party.
- Considering any conflicts of interest that might arise in the course of representing dual or multiple parties to the action and the possible adverse consequences that could result should that happen.
- Considering the measures to be taken for ensuring that the confidential disclosures of each party is not compromised.
- Advising each party, preferably separately, on the risks associated with dual or multiple representations.
- Obtaining the informed consent of all parties before undertaking the dual or multiple representation, and court approval of the waiver of conflict of interest.
- Withdrawing from the dual or multiple representation case, if a conflict of interest arises that significantly impairs the attorney's ability to adequately represent the separate and distinct rights and interests of each party.

Serious consideration should be given before agreeing to represent more than one party to the action since an unforeseen need to withdraw from the representation at a later date could cause a prolonged delay in achieving the parent's goal for reunification with the child.

An attorney should never represent both parents in situations where one parent has made allegations of domestic violence or abuse against the other parent.

4. Communication with Client

An attorney representing a parent in child protection proceedings or termination of parental rights proceedings shall fully and promptly inform the parent on the aspects of the case affecting the parent's rights and, to the extent permitted by law, update the parent regarding the child's safety and well-being concerning custody, care, and plans for permanency, and explain these matters in a manner that allows the parent to make informed decisions regarding the representation.

Because parental representation involves matters affecting a fundamental liberty interest, an attorney who represents a parent in these proceedings is expected to fully and promptly inform the parent on all legal aspects of the case affecting the parent's rights so that the parent may participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

Full and prompt communications, at a minimum, requires:

- Providing contact information in writing and establish a message system that allows regular attorney-client contact.
- Regularly meeting and advising the parent on all aspects of the case.
- Reviewing with the parent the allegations in the petition, the terms and conditions of the court-approved service plan, the orders of the court, and any negotiated agreements.
- Informing the parent of the possible consequences for noncompliance with the court approved service plan and other orders of the court.
- Apprising the parent regarding the child's safety, permanency, and wellbeing.
- Explaining to the parent the general strategies and prospects of success of any pending proceedings.

Work with the client to develop a case timeline and calendar system that informs the client of significant case events and court hearings and sets a timeframe describing when specific case requirements (such as services) should be completed.

- Provide the client with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule or court order.

- Take diligent steps to locate and communicate with a missing parent and decide representation strategies based on that communication.

- Avoid meeting the client exclusively at government facilities like the courthouse or DHS. Besides client confidentially concerns raised by meeting in a public facility, meeting in an office or more neutral location assists in the development of a more trusting relationship between the attorney and client. Trust is a hallmark of the attorney-client relationship and is essential for effective representation.

Communicating with a parent who suffers from a mental disability may present challenges in meeting these standards. In such cases, the attorney should keep the parent advised on the status of the case as deemed reasonably practicable and, if necessary, should request the court appoint a trained professional to assist the parent for purposes of the representation. For a parent who is a limited English speaking person or is hearing impaired the attorney should request the court appoint an interpreter approved by the Administrative Office of Courts to accommodate the representation. *See Miss. Code Ann. § 13-1-301* (appointment of interpreter for hearing impaired).

5. Confidentiality

An attorney representing a parent in child protection proceedings or termination of parental rights proceedings shall not reveal information relating to the representation unless the parent gives informed consent for the disclosure, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is otherwise required by law and, further, such attorney shall not reveal the confidential records of children or others that have been acquired in the course of the representation except as required by law.

Protecting the confidentiality of information, at a minimum, requires:

- Studying and fully understanding the laws governing the attorney-client privilege, the work product doctrine, the rule of confidentiality established in the *Mississippi Rules of Professional Conduct*, and the laws governing the disclosure of records involving children under the *Mississippi Youth Court Law and the Uniform Rules of Youth Court Practice*.
- Explaining fully and promptly to the parent the advantages and disadvantages of exercising, waiving, or partially waiving a privilege or right to confidentiality as warranted by the facts and circumstances of the case.

6. Diligence

An attorney representing a parent in child protection proceedings or termination of parental rights proceedings shall act with reasonable diligence and promptness at every stage of these proceedings toward protecting and pursuing the parent's rights and interests.

Because parental representation involves time-sensitive proceedings, an attorney who represents a parent in these proceedings is expected to act with reasonable diligence and promptness in all phases of the representation so that the parent's rights and interests are not adversely affected.

6.1 Discovery & Court Preparation

Counsel shall conduct a thorough and independent investigation at every stage of the proceeding. Counsel shall review the child welfare agency case file and obtain all necessary copies of pleadings and relevant notices filed by other parties. When needed, use formal discovery methods to obtain information.

Effective court preparation includes the following:

- Interview the client and potential witnesses such as school personnel, neighbors, relatives, foster parents, medical professionals, etc., and subpoenaing appropriate witnesses.
- Obtain necessary authorizations for releases of information.
- Research applicable legal issues and advance legal arguments when appropriate.
- Develop a case theory and strategy to follow at hearings and negotiations.
- Timely file all pleadings, motions, and briefs.
- Make timely evidentiary objections, and otherwise developing a thorough record for appellate review.
- Engage in case planning and advocate for appropriate social services.
- Engage in out-of-court advocacy, including participation in family team meetings.

- Advocate for services to remedy circumstances that led to out of home placement and that services be provided in a manner that is accessible to the client.
- Advocate for regular visitation in a family-friendly setting.
- Documenting the parent's efforts to successfully comply with the service agreement.
- With the client's permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.
- Thoroughly prepare the client and all witnesses to testify at the hearing.
- Identify, secure, prepare and qualify expert witness when needed. When permissible, interview opposing counsel's experts.

When representing a parent who is incarcerated, the attorney needs to be especially mindful of federal and state laws governing completion deadlines on reasonable efforts for reunification. See Rule 7, Uniform Rules of Youth Court Practice. As such, the attorney should advise the parent on the challenges for achieving reunification of the child with the parent, and the possible consequences for failing to comply with the terms and conditions of the court-approved service plan.

6.2 Shelter Hearings

The importance of shelter hearings should not be underestimated. Important matters are often decided at this initial hearing that can have long-term effects of the outcomes of the client's case. These issues include placement with the client, relative placement, visitation, and the early engagement of the client into voluntary services. Counsel should work to negotiate or achieve the best possible outcome for the client at this hearing.

Even though these are emergency hearings which give counsel little time to prepare, counsel should protect the due process rights of client, including the right to have shelter hearings within 48 hours of removal, the right to present evidence and examine witnesses, and the right of the client to testify.

Counsel should also recognize the opportunity to establish an excellent attorney-client relationship at the beginning of the case. Clients should be given the opportunity to talk to counsel prior to the hearing about their case. Counsel should prepare the client for the shelter care hearing and call witnesses where appropriate.

6.3 Adjudication Hearings

Counsel should take great steps to adequately prepare for the adjudication hearing, including maintaining continued contact with the client, communicating with the department and the guardians ad litem as necessary for the client's case, subpoenaing witnesses, making requests for discovery, filing motions and/or answers to petitions. Counsel shall protect the client's due process rights, make necessary objections, and take into considerations any underlying or concurrent criminal charges related to the same set of circumstances. If a child is in state custody, the adjudication hearing must take place within 30 days of the child coming into state care. If a child is temporarily placed with relatives or fictive kin, the adjudication hearing should take place within 90 days. As a matter of practice, counsel should request court dates as soon as possible to prevent any unnecessary delays.

6.4 Disposition Hearings

If a child has been adjudicated as abused or neglected in accordance with Mississippi Code Annotated 43-21-561, then the Youth Court will proceed with a disposition hearing to determine the continued placement of the children while the client works to establish and complete their service plan. This hearing may take place immediately following the adjudication hearing, unless a party requests a continuance to prepare for their participation in that hearing. If a child is in state custody, the disposition hearing must be held within 14 days of the adjudication hearing. Counsel should make an *ore tenus* motion to excuse the child if the information and evidence provided will be injurious to the child's best interest, with the child's counsel's consent.

6.5 Periodic Review Hearings

As a matter of strategy, Counsel may consider requesting review hearings prior to annual review/permanency hearings to apprise the court of the client's progress or change in circumstances since the entry of the adjudication order, including but not limited to completion of service plans and/or rectification of the issues which caused the court's initial involvement. Unless otherwise requested, review hearings are typically scheduled for a date certain within 6 months of the shelter hearing. Counsel shall utilize motion practice to advocate for increases in visitation, etc. Counsel shall protect the client's due process rights and make

necessary objections during all youth court proceedings.

6.6 Annual Review/Permanency Hearings

Counsel shall engage in case conferences, family team meetings, and/or other forms of out-of-court advocacy related to determining the best interests and permanency plans for the family and/or child on an ongoing basis and well in advance of the annual review/permanency hearing. Counsel shall file any necessary motions reflecting the client's wishes as to the permanency of the child and any progress or completion the client has achieved regarding the service plan. Counsel must provide legal advice and counsel the client on federal and state laws regarding the timeline of a child's journey through the child welfare system. Counsel must explain the possible outcomes and the legal ramifications that may follow, including successful reunification, continued temporary placement, durable legal custody to a relative or third party, or termination of parental rights and adoption. Counsel should take great steps to adequately prepare for the annual review/permanency hearing, including maintaining continued contact with the client, communicating with the department and the guardians ad litem as necessary for the client's case, obtaining necessary reports and documentation of completed services, subpoenaing witnesses, making requests for discovery, filing motions and/or answers to petitions. Counsel shall protect the client's due process rights and make necessary objections during all youth court proceedings.

6.7 Case Conferences, Family Team Meetings and Staffings

Counsel shall attend the case conference to develop a written voluntary services plan, driven by the client's assessment of their individual and/or family needs. Services plans should meet the individual needs of each client and be designed to facilitate reunification. Additionally, counsel should participate in case staffings, settlement conferences, multi-disciplinary team reviews, family team meetings and other conferences held to negotiate, develop and implement case plans.

7 Advocacy for Appropriate Services

Consistent with the client's goals, counsel shall thoroughly discuss with the client the advantages of early engagement in services and advocate for timely provision of services appropriate to meet the needs of the individual client. Parents often see themselves as passive recipients of services rather than as a part of the process of determining what services are necessary to resolve the problem. Attorneys should assist them in taking a more active role in the process and representing their own views. Attorneys should help clients obtain not only services deemed necessary by the department, but also those that the family considers essential to its survival. Advocacy for services should occur at every stage of the proceeding, beginning with the initial shelter hearing and shall also include out-of-court case events such as: case conferences; family team meetings; and multi-disciplinary team staffing. Counsel should identify and address barriers that may prevent or limit the client's ability to successfully engage in services. Counsel should assure that court orders specify each party's duties and responsibilities regarding service referrals, payment for services, transportation issues and a realistic timeline for commencing and completing services. Counsel's efforts to advocate for services include the following principles:

- The department has a duty to make reasonable efforts to unify the family;
- The department must develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make;
- The department case worker should solicit the parent's active participation in the development of this individualized service plan;
- The court order should specify who is responsible for attaining services and by what time.

The department must coordinate within the department and with contracted service providers, to ensure that parents in dependency proceedings receive priority access to remedial services. Remedial services include: individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

- The department may provide funds for remedial services if the parent is unable to pay for such services; and
- Required services must be related to the parental deficiencies or circumstances that led to the child's removal from the home.

8 Advocacy for Visitation

Counsel recognizes that parent-child contact is essential to the welfare of the child and the successful resolution of the client's case and advocates for frequent, consistent visits in the least restrictive setting possible. Counsel's advocacy efforts include the following principles:

- Visitation is the right of the family;
- Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify;
- The department must encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child;
- Visitation plans should allow for make-up visits in the event that a child is not available for a visit or when a parent, for good cause cannot attend a scheduled visit; and
- Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services and may only be limited or denied when necessary to protect the child's health, safety, or welfare.

9 Post Hearings/Appeals

Counsel is obligated to ensure that each client understands and is able to exercise their rights to appeal, discretionary review and post hearing relief.

- Review court orders to ensure accuracy and clarity and review with client.
- Take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court.
- Consider and discuss the possibility of appeal with the client. Prior to discussion counsel must contact the Office of State Public Defender to determine availability of representation on appeal through that agency. If appellate representation is available counsel must advise client of this resource.
- If the client decides to appeal, timely and thoroughly file the necessary post-hearing motions and paperwork related to the appeal as required by the Rules of Appellate Procedure.
- Request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending.
- Coordinate with appellate counsel to assure that appropriate steps are taken (such as a motion to stay) to protect the client's interests while the appeal is pending.

Family Justice Initiative Attributes of High Quality Legal Representation



Making the Legal System Work for Children and Parents

Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings

This document describes fundamental attributes of quality legal representation for parents and children in child welfare proceedings, beyond presumed competency and knowledge of the law, rules of procedure, and negotiation and trial skills. This document builds on existing Standards of Practice¹ for attorneys representing children and parents in child welfare proceedings, and findings and recommendations from the U.S. Department of Health and Human Services, Children's Bureau, National Quality Improvement Center on the Representation of Children in the Child Welfare System² and Administration for Children and Families.³

FUNDAMENTALS

Prioritize Quality

The attributes/elements of quality representation identified in this document should be in place as soon as possible. Systems should ensure attorneys for parents and children have supports to provide quality representation to clients.

Be a Lawyer

First and foremost, children's attorneys and parents' attorneys in child welfare proceedings are lawyers who have ethical duties to their clients and to the administration of justice in an adversarial system. The adversarial nature of the legal system presumes disagreements can be resolved by a neutral arbiter, after hearing facts and legal arguments presented by opposing parties within a normal framework of evidentiary and procedural rules. Child welfare proceedings, in contrast, are often characterized as more informal or collaborative. While there may be instances where clients' goals can be achieved through negotiation and cooperation, attorneys for parents and children must always remember their ethical duties are to their clients in an adversarial system, including their professional obligations of competency and diligence. Other system-actors, including judges and court administrators, also must not forget that children's and parents' attorneys have ethical duties to their clients, which are paramount to expediency or cost-savings and are a cornerstone of the legal system.

Special Considerations for Children's Attorneys

Significant debate surrounds the appropriate role for children's attorneys in child welfare proceedings, primarily around whether children's attorneys should, consistent with rules of professional conduct, "abide by the client's decisions concerning the objectives of representation" and help clients achieve their objectives; or whether attorneys should substitute their judgement for that of their clients and advocate for what they believe is best for their clients. Academics, and many practitioners, favor client-directed representation as the most appropriate model of representation for verbal children who can express a point-of view.⁴ However, most states do not have a client-directed model of children's representation, but rather follow a substituted judgement model.⁵

When children are nonverbal, or if children's attorneys are required by the appointing statute to substitute their judgment for that of their clients, attorneys are advised to frame their role in the context of advancing their child-clients' legal rights or legal interests (i.e., children have a legal right to live with their parents unless a court has found the parents unfit; children have a legal right to be placed with relatives, not in the most well-resourced home).⁶ To do otherwise invites children's lawyers to take on the role of the judge and determine what they believe to be in their client's best interest based on factors which are not limited by the rules of evidence and procedure, and are not subject to review.⁷ At the very least, any analysis of what is in a child's best interest must focus on the child-client's wishes and objectives and preserving the child's family environment and maintaining familial relationships.⁸

Individual and System Responsibilities

This document divides attributes/elements into those that must be met by individual parents' and children's attorneys when representing their clients and those that must be addressed by the systems or structures governing legal representation for children and parents in child welfare proceedings.

The fundamental attributes of quality representation for both children and parents that must be met by individual attorneys are those attributes that are already required of attorneys under their codes of professional conduct.⁹ The fundamental attributes that must be met by systems or structures governing legal representation for children and parents in child welfare proceedings are those elements that must be in place to allow parents' and children's attorneys to meet their individual obligations to their clients.



Individual Attorney Attributes

- ◆ Diligently pursue clients' case goals and, as needed and when consistent with client's interests and objectives, proactively drive the case forward:
 1. Develop a case theory and legal strategy for adjudication, and advance other client objectives and issues that support reunification (e.g., litigation to increase visitation).
 2. Engage in proactive case planning, develop and propose a case plan, identify service providers, and set a visitation schedule (if family maintenance or immediate family reunification is not possible).
 3. Litigate issues and use experts, as needed, to achieve clients' case goals, including through active motion practice throughout proceedings, not only at statutorily set periodic review dates.
 4. Explain to clients their right to attend court hearings and advocate for clients who want to attend court proceedings to attend in person.

Out-of-Court Advocacy

- ◆ Engage with and know the clients.
- ◆ Understand trauma and client's specific trauma history, including:
 1. How client's trauma history impacts client's experience with the child welfare system and ability to engage in child welfare services; and
 2. How trauma impacts the attorney/client relationship.

- ◆ Meet and communicate regularly with client and well before any and all court hearings.
- ◆ Counsel clients about all legal matters related to the case, including the allegations related to dependency, the proposed service plan, and the client's rights in the pending proceedings.
- ◆ Approach cases with a sense of urgency with an immediate focus¹⁰ on:
 1. Placement arrangements that support child's connection to family, siblings, education, language and culture (including in-home placement, with relatives, neighbors and fictive kin/close family friends);
 2. Visiting arrangements that, consistent with child safety, are: unsupervised whenever possible in child friendly places conducive to parent/child interaction and engagement, as frequent and long as possible, organized around activities that reflect the routine activities of the family, and progress through reduced supervision and increased frequency; and
 3. Services that appropriately address client's strengths and needs.
- ◆ Conduct a thorough and independent investigation at every stage of the proceeding, before and after the jurisdictional/dispositional phase of the proceedings. This should include obtaining and reviewing on an ongoing basis and to the extent allowable under state law (including via subpoena, discovery, or court order), child welfare agency records, service provider records, and all other relevant records for parents and children, including medical and education records.
- ◆ Research applicable legal issues and legal arguments.
- ◆ Engage in case planning and advocate for appropriate services and visitation, on an ongoing basis, including after the jurisdictional/dispositional phase of the proceedings.

Cultural Humility

- ◆ Understand how racial, cultural, social, and economic differences may impact the attorney/client relationship, avoid imposing personal values upon clients, and take these factors into account when working with clients to achieve their case goals, including identifying and accessing services.
- ◆ Understand and recognize the impact of personal and system bias stemming from race, gender identity, sexual orientation and expression, ethnicity, culture, country-of-origin, disability, and socioeconomic status, and develop strategies, including legal strategies, to mitigate the negative impact of personal and systems bias on clients' case goals.
- ◆ Identify and use to clients' advantage their individual, familial, cultural, and community strengths.

Scope of Representation

- ◆ Identify potential ancillary legal issues that could impact client's dependency case and refer client to legal resources to address issues, or handle if competent to do so.
- ◆ Cooperate and communicate regularly with client's other legal service providers to ensure dependency proceedings and other legal proceedings benefit client.



System Attributes

Caseloads and Compensation

- ◆ Ensure parents' and children's attorneys' compensation rates are adequate for the attorneys' practice, accounting for overhead and other costs borne by private professionals. At a minimum, parents' attorneys' and children's attorneys' compensation should be equal to county or child welfare agency attorneys' compensation, and consistent with other publicly-funded attorneys' compensation, including criminal defense attorneys.

- ◆ Ensure attorneys have a reasonable caseload of no more than 60 clients at a time for a full-time attorney, assuming a caseload that includes clients at various stages of the case. Generally, caseloads with over 60 clients will not be manageable for attorneys who lack supports of an interdisciplinary practice model, including access to social workers, investigators, and/or paralegals.¹¹ Note, a caseload of 60 clients should be considered full-time work, and attorney compensation should support a full-time practice at this caseload level.

Interdisciplinary Model

- ◆ Ensure attorneys have access to work in an integrated manner with interpreters, experts, social workers, and investigators, as needed.
- ◆ Ensure attorneys have access to work in an integrated manner with parent allies/ peer parent mentors and youth ambassadors, as needed.¹²

Diversity/Cultural Humility

- ◆ Ensure system provides attorney training around bias and cultural humility, including how racial, cultural, social, and economic differences may impact the attorney/client relationship, how personal and system bias may influence child welfare system decision making, and how attorneys can mitigate the negative impact of personal and system bias on clients' case goals.
- ◆ Ensure attorney supervision and oversight includes an opportunity for attorneys to reflect on bias and cultural humility and to evaluate impact of attorneys' personal bias on representation.
- ◆ Develop and implement a strategy to ensure a diverse attorney and staff workforce that mirrors the cultural, racial, and socioeconomic background of clients and communities served and which includes meaningful professional advancement and leadership opportunities.¹³

Timing of Appointment

- ◆ Ensure attorneys are appointed and have the opportunity to have a meaningful meeting with the client, before any court appearance, regarding any allegations of abuse or neglect, the attorney/client relationship, and the child welfare legal system process. The meeting should be held at the earliest to occur of: (1) the emergency removal of a child from his or her home; (2) an application for an order of removal, prior to the filing of a petition alleging abuse or neglect; or (3) the filing of a petition alleging abuse or neglect.¹⁴

Support and Oversight

- ◆ Define clear roles and expectations for attorneys and all members of the multidisciplinary team.
- ◆ Provide training and education opportunities.
- ◆ Provide oversight and performance evaluation.
- ◆ Provide the opportunity for clients to provide feedback on representation.

Accountability/Use of Data

- ◆ Use a continuous quality improvement process to measure qualitative and quantitative outcomes.¹⁵

Endnotes

1. ABASTANDARDSOF PRACTICEFOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES (American Bar Association, 2006); ABA STANDARDS OF PRACTICE FOR LAWYERS WHO REPRESENT CHILDREN IN ABUSE AND NEGLECT CASES (American Bar Association, 1996); NACCRCOMMENDATIONS FOR REPRESENTATION OF CHILDREN IN ABUSE AND NEGLECT CASES (National Association of Counsel for Children, 2001).

2. DONALD N. DUQUETTE, CHILDREN'S JUSTICE: HOW TO IMPROVE LEGAL REPRESENTATION FOR CHILDREN IN THE CHILD WELFARE SYSTEM (American Bar Association, 2016).

3. U.S. DEP'T. OF HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN & FAM., INFORMATION MEMORANDUM: HIGH QUALITY LEGAL REPRESENTATION FOR ALL PARTIES IN CHILD WELFARE PROCEEDINGS, ACYF-CB-IM-17-02 (January 17, 2017).

4. DUQUETTE, *supra* note 2; *See also Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham*, 6 NEV. L.J. 592 (2006).
5. *See e.g.*, CHILD ADVOCACY INSTITUTE & FIRST STAR, A CHILD'S RIGHT TO COUNSEL: A NATIONAL REPORT CARD ON LEGAL REPRESENTATION FOR ABUSED AND NEGLECTED CHILDREN (3d ed. 2012), at http://www.caichildlaw.org/Misc/3rd_Ed_Childs_Right_to_Counsel.pdf
6. *See e.g.*, Martin Guggenheim, *A Paradigm for Determining the Role of Counsel for Children*, 64 FORDHAM LAW REVIEW 1399 (1996); *see also* Lisa Kelly & Alicia Levezu, *Until the Client Speaks: Reviving the Legal Interest Model for Preverbal Children*, 50 FAML.Q. 3 (Fall 2016) (noting that when children's legal rights conflict, the child's attorney should present information on both options to the judicial officer without taking a position).
7. *See* Guggenheim, *supra* note 6, at 1431.
8. *See e.g.*, DUQUETTE, *supra* note 2; *see also* U.N. Committee on the Rights of the Child, Convention on the Rights of the Child, General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art. 3, para. 1), §§ 48-79, May 29, 2013.
9. *See e.g.*, MODEL RULES OF PROF'L CONDUCT (2016).
10. Jillian Cohen & Michele Cortese, *Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families*, 28 ABA CHILD LAW PRACTICE 33, 38-44 (May 2009).
11. Throughout the country, caseloads for parents and children's attorneys vary significantly, and in many jurisdictions caseloads exceed 100 or even 150 open cases. Research has indicated that when parents have high-quality legal representation (and attorneys have lower caseloads) children achieve permanency faster. *See e.g.*, MARK E. COURTNEY, JENNIFER L. HOOK, & MATT ORME, EVALUATION OF THE IMPACT OF ENHANCED PARENTAL LEGAL REPRESENTATION ON THE TIMING OF PERMANENCY OUTCOMES FOR CHILDREN IN FOSTER CARE (Partners for Our Children, Feb. 2011). Managers of parent representation programs indicate that attorneys are unable to consistently meet their obligations to their clients when caseloads exceed 60 clients, and in some jurisdictions caseloads are capped at 40 clients again as program managers have found that attorneys cannot meet their individual obligations to their clients with more cases. Researchers have found that children's attorneys with more than sixty cases spent less time on investigation, document review, and legal case preparation. *See* DUQUETTE, *supra* note 2. Additionally, a comprehensive caseload analysis in Pennsylvania found that attorneys for parents and children could not meet their statutory obligations to clients with cases exceeding 61 clients for parent attorneys and 71 clients for children's attorneys. *See* 2015 PENNSYLVANIA STATE ROUNDTABLE REPORT, LEGAL REPRESENTATION: A CALL TO ACTION (2015), at [http://www.ocfcpcourts.us/assets/upload/Resources/Documents/2015%20Legal%20Representation%20Report3\(1\).pdf](http://www.ocfcpcourts.us/assets/upload/Resources/Documents/2015%20Legal%20Representation%20Report3(1).pdf)
12. This attribute is considered "ideal" and may be aspirational for many jurisdictions because of funding or other limitations.
13. *Id.*
14. Some jurisdictions have piloted appointing parents' attorneys prior to removing a child from the home, or filing of a petition seeking removal or court oversight. Pre-petition/pre-removal appointment of parents' attorneys has had promising results keeping families intact and preventing the unnecessary removal of children into foster care.
15. Continuous quality improvement generally means collecting data and using it to "identify, inform, monitor and improve progress toward outcomes in an ongoing fashion." U.S. DEP'T OF HEALTH & HUM. SERVS., ADMIN. FOR CHILDREN & FAM., PROGRAM INSTRUCTION FOR STATE COURTS APPLYING FOR COURT IMPROVEMENT PROGRAM (CIP) FUNDS FOR FISCAL YEARS (FYS) 2012-2016, ACYF-CB-PI-12-02, 6 (Jan. 11, 2012). Collecting data is key to measuring and tracking the progress of legal representation, monitoring how well interventions and activities are working, and making any needed adjustments to meet your goals. *See e.g.*, Andrew Davies & Angela Olivia Burton, *Why Gather Data on Parent Representation? The Pros, Cons, Promise and Pitfalls*, 34 ABA CHILD LAW PRACTICE 49, 54-57 (April 2015). Tools available to help with continuous quality improvement of legal representation for children's and parents' attorneys are available, as well as technical assistance regarding the same. *See e.g.*, ABA CENTER ON CHILDREN AND THE LAW, INDICATORS OF SUCCESS FOR PARENT REPRESENTATION, (2015), at https://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/Indicators-of-Success.authcheckdam.pdf.



The Family Justice Initiative (FJI) is a collaboration of the ABA Center on Children and the Law, the Children's Law Center of California (CLC), the Center for Family Representation (CFR), and Casey Family Programs (CFP).

The FJI unites professionals from around the country to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families. Through the FJI's work, child welfare lawyers, researchers, judges, social workers, policymakers, families impacted by abuse and neglect, and others are reenvisioning how to best protect children, strengthen families and support communities.

ABA Legal Representation in Child Welfare Proceedings



ABA Center on Children and the Law

Legal Representation in Child Welfare Proceedings

Benefits of high-quality legal representation



Protects parents' and children's legal rights.



Increases parties' participation in and out of court.



Improves all parties' perceptions of fairness.



Reduces delays in achieving permanency and helps children and families reach better, long-term outcomes.



Promotes tailored case plans and services.



Improves frequency and timeliness of parent-child and sibling visitation and family time.



Empowers families and communities to keep children safe at home.



Informs better judicial decision making.



Saves jurisdictions money by reducing time children spend in foster care.



Structuring a system of high-quality representation

- ✓ Clearly define roles and expectations.
- ✓ Set reasonable caseloads.
- ✓ Offer fair compensation and benefits.
- ✓ Follow standards of practice.
- ✓ Provide specialized child welfare law training.
- ✓ Ensure effective supervision.
- ✓ Seek client feedback on representation.
- ✓ Give attorneys access to an interdisciplinary model of representation.



How judges promote high-quality legal representation

- ✓ Ensure all parties have access to legal representation as early as possible in the case.
- ✓ Confirm all counsel have requisite training, experience and understanding of child welfare law to vigorously represent their clients.
- ✓ Establish an environment where parties are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.
- ✓ Understand the child welfare agency's practices, procedures, and operations, and ensure it fulfills its legal duties.
- ✓ Require that all attorneys adopt a disciplined approach to processing cases and respect timely court hearings, court decisions, and implementation of court orders.
- ✓ Ensure the spirit of collaborative meetings and case management does not compromise any party's rights and protections under the law.
- ✓ Seek opportunities to train child welfare attorneys.
- ✓ Solicit input from all parties to gain as complete a picture as possible to inform judicial decision making and promote child and family well-being.

Essential practices for all child welfare attorneys

- ✓ Advocate for your client.
- ✓ Ensure judges have information needed to make case decisions.
- ✓ Communicate with clients regularly.
- ✓ Know federal and state child welfare laws and keep current on new developments.
- ✓ Prepare for and attend court hearings and reviews.
- ✓ Seek court accommodations that promote equal access and full participation in proceedings.
- ✓ Prepare clients and witnesses for court.
- ✓ Maintain a reasonable caseload and devote sufficient time for advocacy.
- ✓ Conduct a thorough, independent investigation at every stage of the case.
- ✓ Provide ethical legal representation.
- ✓ Understand and effectively implement trauma-informed practice.
- ✓ Confirm clients receive proper notice and comply with court orders.
- ✓ Actively engage in conflict resolution and negotiation.
- ✓ Reduce case continuances and timely file all pleadings, motions, and briefs.
- ✓ Mentor and train others in the field.
- ✓ File motions and appeals to protect client rights and interests.
- ✓ Understand how cultural, social, and economic differences affect the attorney-client relationship and avoid personal and system bias.

Quality hallmarks



Child attorney

Role: Protect and advance child's interests in court, provide legal counsel, and help the child understand the legal process and feel empowered to participate.

Quality hallmarks:

- Understand the child's wishes in the case.
- Understand the child's strengths, needs, and resources.
- Ensure the child has an opportunity to attend and participate in court hearings.
- Advocate for the child to maintain contact with parents, siblings, and kin through visitation, placement, and permanency planning.
- Work with collateral contacts—teachers, foster parents, service providers.
- Collaborate with a multidisciplinary team.
- Promote tailored, specific case plans and services.
- Advocate for the child's access to education and community supports.



Parent attorney

Role: Protect the parent's legal rights, advance the parent's interests in court, and help the parent understand the legal process.

Quality hallmarks:

- Explain the child welfare legal system and the parent's rights and duties.
- Ensure the parent's voice is heard and understood in the proceedings.
- Help the parent problem solve and meet case goals.
- Build a relationship of trust and ensure the parent experiences fairness.
- Understand the parent's life circumstances, including strengths, needs, and available resources.
- Advocate parent-child contact through visitation and permanency planning.
- Collaborate with a multidisciplinary team, including parent mentors and parent social workers.
- Address collateral legal issues that may affect the child welfare case in housing, employment, health care, disabilities, domestic violence, benefits, criminal justice, and immigration law.



Agency attorney

Role: Represent the child welfare agency or jurisdiction and present evidence of the underlying case in court including agency compliance with federal and state child welfare laws.

Quality hallmarks:

- Provide guidance to agencies and caseworkers on child welfare law, procedures and policies.
- Consult on decisions to remove or return a child and ensure decisions meet legal standards.
- Prepare or help prepare the initial petition and subsequent pleadings.
- Promote quality casework and agency performance to support families.
- Ensure no undue delays in service provision, case planning, or other agency duties.
- Cooperate and communicate regularly with other counsel.
- Help the agency meet federal monitoring and continuous quality improvement requirements.
- Work with agency to ensure parties' legal rights are protected.
- Train caseworkers on federal and state laws to ensure the agency maintains high-quality performance.