

March 23, 2021

Re: County Feedback on HF 312

Dear Members of the House Human Services Finance and Policy Committee:

Counties appreciate the opportunity to provide feedback on HF 312 and its language as introduced. The topic of parental representation at initial Emergency Protective Care (EPC) hearings involves various aspects of county government – including but not limited to human services, the County Attorney’s office, and county administration. As a result, numerous representatives of the Association of Minnesota Counties (AMC) and Minnesota Association of County Social Services Administrators (MACSSA) have actively participated in the Parent Representation Working Group, convened by Representative Rena Moran and Senator Andrew Mathews, over the last year.

First, AMC and MACSSA would like to acknowledge the significant engagement by the Institute to Transform Child Protection; their outreach and work towards understanding and alleviating county concerns is appreciated. Counties appreciate amendments to the 2020 version of this bill, especially the inclusion of an appropriation for county reimbursement that recognizes the expansion of an already unfunded mandate to counties.

Second, counties hope to educate policymakers on remaining concerns regarding the implementation of a new statewide parent attorney mandate. Since the Board of Public Defense ended representation of parents in 2008, parental representation has been an unfunded mandate to counties and has resulted in differences across the state in how and when representation is provided. These differences are directly related to varying county resources as well as varying levels of access to attorneys that provide parental representation. Access to attorneys who are able to provide parental representation is different in Lake of the Woods county than it is in Ramsey county. While counties recognize the worthwhile intent of this legislation, we also recognize remaining issues with program administration, recruitment and retention of qualified and culturally competent attorneys, costs to implement and maintain the recommended requirements, and division of funding between the state and counties for contracting for these services.

As this bill continues to move through the Legislature, counties are interested in finding solutions to the following concerns:

- 1. Current language directs the commissioner to distribute funds only to counties that do not currently provide court-appointed counsel at EPC hearings.** This implementation creates additional administrative burden by requiring counties to apply for reimbursement for EPC costs, while also not providing access to funds for counties that are currently funding this service. This penalizes counties that are already providing parental representation in a time when county budgets are already stressed. Counties would recommend funds be available for all counties and that resources be distributed directly to counties at year-end based on the number of eligible EPC hearings in each county, the average hourly rate for representation, and the average number of hours of representation for a typical EPC hearing.
- 2. Implementation of Federal IV-E funding is an uncertain, incomplete, and administratively burdensome reimbursement source for EPC hearings.** A 2019 federal policy change created a potential partial financial resource for some parental representation costs. The federal Child Welfare Policy Manual was amended to allow the use of title IV-E funds for the provision of legal representation for the parents of an eligible candidate for title IV-E foster care or a title IV-E eligible child in foster care. However, this only provides reimbursement at a rate of 50% of the administrative expenditures for representation if a child is IVE eligible - potentially providing only a portion of funding for the cost. Applying for reimbursement through IV-E is an administratively intensive task, and navigating this new funding is a costly administrative obligation. While Hennepin County is currently engaging in a pilot to explore this new opportunity, no Minnesota county has yet seen title IV-E reimbursements to date - more than a year after the eligibility requirements were amended. Nonetheless, any increase in expectations under a new mandate is very likely to exceed both current county commitments and the portion allowable for claiming under IV-E. A dedicated funding source for counties is a necessary part of reforming parent representation and must be included in this bill to adequately represent the legal interests of parents.
- 3. Continued investment and workforce development is needed to ensure parent attorney capacity exists to meet the need of the new mandate.** This bill does not address a shortage of parental representative attorneys across the state. Efforts are needed to ensure there is sufficient access across the state before a mandate is imposed.

Pg. 3, County Feedback on HF 312

Thank you for the ability to weigh in on this proposal and for your consideration and partnership to address the above concerns.

Sincerely,



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