

GIVING VOICE TO OUR CHILDREN'S FUTURE: 30 YEARS IS LONG ENOUGH FULL FUNDING FOR DEPENDENCY COUNSEL

Despite the extraordinary rights at stake in child welfare cases, funding for attorneys who represent parents and children in child abuse and neglect cases (dependency counsel) lags far behind need. High-quality lawyers are essential to any effort to amplify the voices of those most affected by the child welfare system. Research shows that high quality legal representation helps families achieve better long-term outcomes, including higher rates of family reunification, improved child safety and well-being, and reduced reliance on taxpayer-funded services. Strong, stable families contribute to safe, thriving communities. **After 30 years of waiting for the state to keep its commitment, legal representation for children and families must be adequately funded, once and for all.** High-quality legal representation provides an essential check and balance against unnecessary family separation and ensures that at risk children, including those who may remain in foster care for many years, get the services and interventions they need and that the law requires.

HISTORY OF THIS UNDERFUNDED MANDATE



STATE RESPONSIBILITY 1989

Court-appointed dependency counsel was first declared a state fiscal responsibility as part of "court operations" in 1989 through the Brown-Presley Trial Court Funding Act, but the long transition to state funding only began 8 years later, with enactment of the Lockyer-Isenberg Trial Court Funding Act, when the State assumed historic responsibility for ensuring statewide equal access to justice including its obligation to fund court-appointed dependency counsel.

JUDICIAL COUNCIL STANDARD 2007

Judicial Council, despite the 2002 AHA study recommendations, bows to budgetary restrictions and adopts a modified caseload standard of max 188 clients per attorney (if assisted by a part-time social worker/investigator). Funding fails to support even this modified standard.

HIGH CASELOADS LEAD TO TASKFORCE STUDY 2015

Judicial Council creates taskforce to revisit caseload funding model due to outdated workload/cost assumptions. Simultaneously adopts 4-year reallocation of existing funds to equalize state funding based on current county caseloads.

TASKFORCE FINDINGS: Review of evidence determines that total statewide funding need for dependency counsel is \$203 million (now \$207 million as updated by Judicial Council, July 2018)

\$11 million increase to dependency counsel, bringing total budget to **\$114.7 million**. Total funding continues to fall far short of need, resulting in significant cuts to some counties.

Dependency Counsel funding established as a separate line item from other court operations.

2002-2004 CASELOAD STUDY



Judicial Council contracted with the American Humane Association to conduct a quantitative caseload study for dependency counsel. Findings: (1) dependency attorneys should represent [no more than 77 clients for best practice standards and] 141 clients for base-level standards, and (2) the average in CA was 273 clients – well above the best practice or base-level standards.

2009-2015 NO CHANGE IN STATE FUNDING, INCREASING TASKS AND RESPONSIBILITY FOR LAWYERS

Caseloads average **325 clients per attorney**. State funding remains stagnant at **\$103.7 million**, but Legislature continues to enact numerous new foster care requirements and protections monitored and enforced by dependency counsel.

2017 BUDGET ACT

\$22.1 Million augmentation, bringing total budget to **\$136.7 million** (the amount estimated more than a **decade** before to achieve average caseloads of 188 statewide)

2018-2019 NO CHANGE

Budget remains **\$136.7 million** leaving a **34%** deficit of the program's total need. Legal services providers are forced to choose between reduced caseloads and inadequate salaries, recruitment challenges, and high turnover of a skilled and experienced workforce.

SOLUTION: ACHIEVING A FULLY FUNDED MANDATE

(1) Commit to full funding for the dependency representation program need, as established by the Judicial Council of California: Fund the 2019-20 Dependency Counsel line item at \$207 million, an augmentation of \$70 million over current funding.

(2) Plan for future evidence-based line item adjustments to recognize changes in caseload, personnel and administrative costs to ensure that the commitment to reasonable attorney caseloads can be sustained over time.

