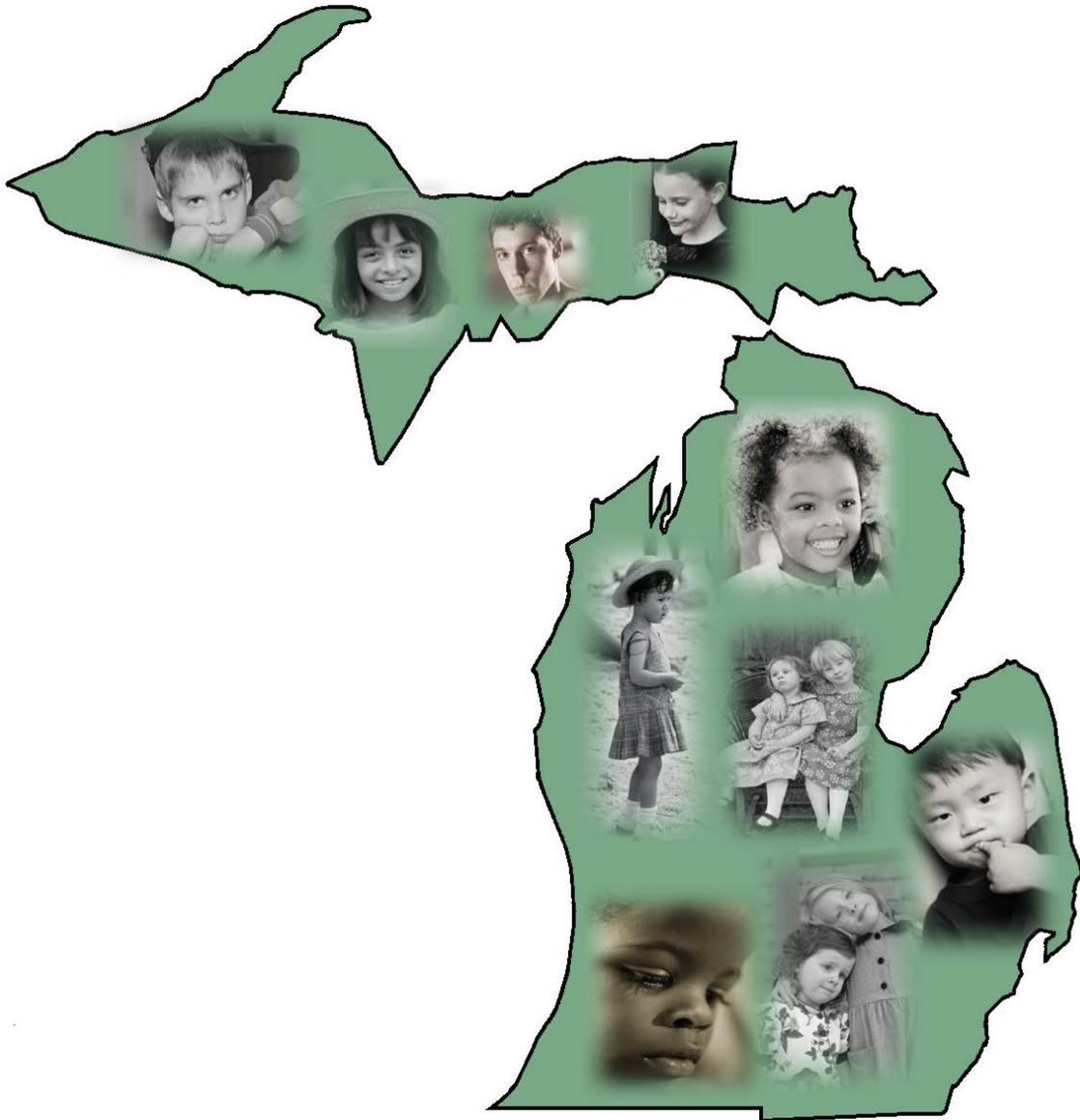


Michigan Supreme Court
State Court Administrative Office

Michigan Foster Care Review Board 2013 Annual Report



<http://courts.mi.gov/FcraAnnualReport2013.pdf>



Mission Statement

The mission of the Foster Care Review Board is to utilize citizen volunteers to review and evaluate permanency planning processes and outcomes for children and families in the Michigan foster care system. Based on the data collected through case review, the Foster Care Review Board advocates for systemic improvements in areas of child safety, timely permanency, and family and child well-being.

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<http://courts.michigan.gov> (FCRB)

Vision Statement

The Foster Care Review Board will be viewed and valued by the courts, the Department of Human Services, private child-placing agencies, the Legislature, and the citizens of Michigan as a major source of credible data on the performance of the child welfare system. Additionally, citizens of the state will use the data to shape public policy and promote awareness regarding the child foster care system.





Program Description

The Foster Care Review Board (FCRB) provides independent third-party review of cases in the state child foster care system. The FCRB also hears appeals by foster parents who believe that children are being unnecessarily removed from their care. Established by the Michigan Legislature in 1984, the Foster Care Review Boards Act, MCL 722.131-140, helps ensure that

children are safe and well cared for while in the state foster care system, and that their cases are being moved toward permanency in a timely and efficient manner.

The FCRB provides this support by reviewing randomly selected individual foster care cases from each county and providing case-specific recommendations to the family division of the local circuit court, to local offices of the Department of Human Services (DHS), and to contracted agencies. The review process also serves to identify systemic barriers to safety, timely permanency, and child well-being, and to monitor Michigan's compliance with important federal funding requirements.

The FCRB review boards are comprised of citizen volunteers from a variety of professions and backgrounds. FCRB program staff recruit, screen, and train the citizen volunteers on key aspects of the child welfare and foster care systems, including court policy and rules, federal funding requirements, DHS policy, and state statutes regarding child protection.

Citizen review remains a cost-efficient and effective means of assisting the courts, DHS, the Legislature, and other interested parties by providing an objective perspective on the foster care case management process. Citizen volunteers donated over 12,000 hours of their time to case review this past year. Their capacity and willingness to significantly increase that number is limited only by available staff support.

This annual report details the efforts of the FCRB during the past year and shares with Michigan's policymakers some of the systemic issues that our citizen volunteers have identified while reviewing foster care cases throughout the state.

Annual Report Requirements

Michigan law, MCL 722.139, requires the State Court Administrative Office to publish an annual report of the FCRB program that includes all of the following information:



- An evaluative summary, with applicable quantitative data, of the activities and functioning of each local review board.
- An evaluative summary, with applicable quantitative data, of the activities and functioning of the aggregate of all local review boards.
- An identification of problems that impede the timely placement of children in permanent placements, and recommendations for improving the timely placement of children in permanent placements.
- The statistics and findings regarding its reviews of permanent wards, and identification of any barriers to permanency.

Program Performance

1. Percentage of foster parent appeals investigated within seven days, as required by MCL 712A.13b(3):

- 2010: 86 percent
- 2011: 90 percent
- 2012: 91 percent
- **2013: 78 percent** ↓

Total Review Hearings in 2013:

441

(Involving 1,426 children)

2. Percentage of cases reviewed by local boards consecutively every six months, as required by MCL 722.137(1)(b):

- 2010: 56 percent
- 2011: data unavailable due to data entry inconsistencies
- 2012: 60 percent
- **2013: 70 percent** ↑

3. Percentage of reports distributed to interested parties within 30 days of the review, or prior to the next court hearing, as required by MCL 722.137(1)(b):

- 2010: 80 percent
- 2011: 71 percent
- 2012: 80 percent
- **2013: 78 percent** ↓

Program Data

Pursuant to our legislative mandate and mission statement, the Foster Care Review Board collects and evaluates data through case review and appeal hearings. This data then allows the program to advocate for systemic improvements related to child safety, timely permanency, and family and child well-being.

Data collected is centered on the following categories:

- Permanency outcomes
- Barriers to Permanency
- Appeal information
- County review data

Top Barriers to Permanency

Reunification: Parents unwilling to participate in or utilize services offered

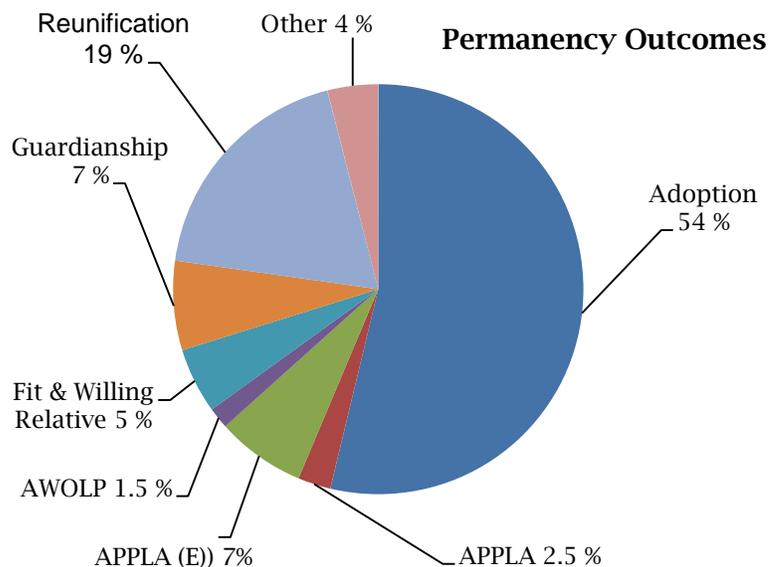
Adoption: Ward behavior

General: Frequent caseworker changes

Legal Guardianship: Ward behavior

Placement With Fit and Willing Relative: Ward behavior

APPLA: Ward behavior



Permanency Outcomes – Closed Cases

These figures represent cases reviewed by the FCRB and closed during 2012 due to the permanency goal being achieved or due to other circumstances in which the child was terminated from court jurisdiction.

PERMANENCY OUTCOMES - CLOSED CASES					
Permanency Outcome	Count	Percent of Total	Average Days in Care	Average Months in Care	Average Number of Placements
Adoption	229	54 %	1127	37	3
APPLA*	11	2.5 %	2082	68	5.9
APPLA (E)**	30	7 %	2585	85	7.6
AWOLP***	7	1.5 %	2002	66	5.4
Fit & Willing Relative	22	5 %	1747	57	2.1
Guardianship	30	7 %	1277	42	2.6
Reunification	80	19 %	644	21	2.1
Other	17	4 %	1856	64	6.3
Blanks		-	1741	57	1.5
Totals	426	100 %	1817	56	4.1

* APPLA - Another Planned Permanent Living Arrangement

** APPLA(E) - Another Planned Permanent Living Arrangement-Emancipation

*** AWOLP - Absent Without Legal Permission

The chart below identifies the most common barriers to timely achievement of each permanency outcome and the applicable number of cases for each, as identified in the course of our reviews.

Category/Definition	No. of Cases	Counties Most Affected
Reunification		
Parents unwilling to participate in or utilize services offered	251	Jackson, Manistee, Wayne
Parents utilizing but not benefitting from services offered	234	Kent, Tuscola, Wayne
Parenting time is not sufficient to support reunification	139	Lake, Mason, Wayne
Parental incarceration	114	Arenac, Saginaw
Parent lacks sufficient legal income to care for self and children	96	Arenac, Saginaw
Affordable/suitable housing not available	93	Wayne
Guardianship		
Required documentation not completed and approved by the DHS Bureau of Child Welfare	10	Oceana

Adoption			
Ward behavior	163	Roscommon, Wayne	
Lack of appropriate adoptive home	136	Wayne	
Competing parties (wishing to adopt)	58	Central Office	
Parental appeal of termination decision	47	Central Office, Wayne	
Interstate compact delays	29	Wayne	
Placement With Fit and Willing Relative			
Ward behavior	13	Gladwin	
Another Planned Permanent Living Arrangement (APPLA)			
Ward behavior	134	Wayne, Oakland, Muskegon, Macomb	
Ward does not have adequate independent living skills	71	Multiple counties	
Specific living arrangement not identified	64	Ingham, Muskegon	
Youth does not have identified connection to responsible adult	56	St. Clair, multiple counties	
Required documentation not completed and approved by Bureau of Child Welfare	35	Wayne, Kalamazoo	

Appeals

Total Appeal Hearings in 2013:

97

(Involving 163 children)

Pursuant to 1997 PA 163, foster parents may appeal the removal of a ward from their home. Eligible appeals are heard by local foster care review boards, which then either agree or disagree with the child's removal. If the review board **agrees** with the foster parents and determines that the removal was **not** in the child's best interests, the matter is then heard by the court or reviewed by the Michigan Children's Institute (MCI) superintendent (if the child is an MCI ward).

APPEAL TOTALS						
	2013	2012	2011	2010	2009	2008
Appeals held: cases/wards	163	89	130			
Appeals held: hearings	97	58	75	125	101	82
Hearings held timely	76	42	68			
Percentage held timely	78%					
Hearings held untimely	21	16	7			
Percentage held untimely	22%					
Appeal intakes	185	117	114	142	126	121
Ineligible for appeal	3	59	28	17	25	39
Hearings cancelled	11	15	11			

APPEAL OUTCOMES (per child/ward)	
	Total
Board does not support removal	68
MCI does not support removal	9
MCI does support removal	9
Court does not support removal	33
Court does support removal	17
Board does support removal	95
Total outcomes	163

In 2013, the Foster Care Review Board Program received **185 intake calls** from foster parents who inquired about appealing a removal decision. Local review boards conducted **97 appeal hearings** (some involving several wards or one ward multiple times in the year), agreeing with the foster parents **68 times** (42 percent) and with the agencies **95 times** (58 percent).

County Data

County	Case Reviews		Appeal Hearings	
	Sibling Groups	Children	Sibling Groups	Children
ALCONA	2	4		
ALGER	2	2		
ALLEGAN	7	13		
ALPENA	2	6		
ANTRIM	4	6		
ARENAC	4	18		
BARAGA	2	4		
BARRY	2	4		
BAY	4	14		
BENZIE	1	2		
BERRIEN	17	37		
BRANCH	3	5		
CALHOUN	10	23	2	5
CASS	7	12		
CENTRAL OFFICE	73	168	8	17
CHARLEVOIX	3	12		
CHEBOYGAN	2	3		
CHIPPEWA	3	4		
CLARE	2	4		
CLINTON	3	10	1	1
CRAWFORD	1	3		
DELTA	2	3		
DICKINSON	4	7		
EATON	6	16		
EMMET				
GENESEE	10	20	4	7
GLADWIN	2	9	1	1
GOGEBIC	2	3		
GR. TRAVERSE	2	2		
GRATIOT	2	3		

County	Case Reviews		Appeal Hearings	
	Sibling Groups	Children Reviewed	Sibling Groups	Children/Wards
HILLSDALE	5	13		
HOUGHTON	4	7		
HURON	6	8		
INGHAM	22	32	11	18
IONIA	2	4	1	2
IOSCO	2	7		
IRON				
ISABELLA	3	4		
JACKSON	14	35	6	16
KALAMAZOO	21	53	4	5
KALKASKA	3	5		
KENT	25	61	7	14
LAKE	5	16		
LAPEER	5	13		
LEELANAU	3	10		
LENAWEE	4	8	1	1
LIVINGSTON	5	15	2	3
LUCE	1	1		
MACKINAC	3	13		
MACOMB	14	30	4	4
MANISTEE	3	11	1	3
MARQUETTE	4	11		
MASON	2	10		
MECOSTA	2	7		
MENOMINEE	2	2		
MIDLAND	4	7		
MISSAUKEE	3	4	1	1
MONROE	2	3	1	2
MONTCALM	3	7	2	2
MONTMORENCY	3	6		
MUSKEGON	17	33	1	3
NEWAYGO	4	11	2	3
OAKLAND	14	39	5	8
OCEANA	1	6		
OGEMAW	3	4		
ONTONAGON	1	1		
OSCEOLA	1	4	1	1
OSCODA	3	4		
OTSEGO	4	7	1	1
OTTAWA	7	15		
PRESQUE ISLE	3	5		
ROSCOMMON	2	8		
SAGINAW	12	27	1	4

County	Case Reviews		Appeal Hearings	
	Sibling Groups	Children Reviewed	Sibling Groups	Children/Wards
SANILAC	3	4		
SCHOOLCRAFT	2	3		
SHIAWASSEE	5	10		
ST CLAIR	6	12		
ST JOSEPH	6	8	1	1
TUSCOLA	4	18		
VAN BUREN	6	12	4	5
WASHTENAW	15	30	5	8
WAYNE	123	336	18	26
WEXFORD	2	8		
Unknown (non-spec)			1	2
TOTALS	441	1426	97	164

**FCRB Program Highlights:
Annual Training Conference**

The 2013 FCRB Annual Training Conference was held in Bay City with all first-day sessions conducted collaboratively with the State Court Administrative Office’s Court Improvement Program.



The conference this year addressed the important issue of overreliance on psychotropic medication as a first-line treatment strategy for children in foster care with mental health and behavioral disorders. Conference presentations by both state and national speakers were designed to assist all parties responsible for a child’s well-being while in the foster care system: caseworkers, judges/attorneys, foster parents, therapists, and review board members. They were provided with information to help them understand the proper role of psychotropic medications in treating childhood mental health and behavioral disorders, so that in their protective role they can help ensure a child is receiving treatment most appropriate to his or her needs and effectively advocate and provide input into treatment decisions.

The conference was privileged to have a panel of youth who were or had been in foster care and were prescribed medication. The youth, all Seita Scholars at Western Michigan University, shared their experiences, insights, and recommendations for improving prescribing practices and monitoring of these medications. They also expressed a desire for youth to receive more information and have more input regarding medications prescribed for them.

On the second day of the conference, board members were updated by the Department of Human Services regarding progress on the Children’s Rights Modified Settlement Agreement, progress on our state’s Program Improvement Plan to address concerns noted in the federal Child and Family Services Review, and implementation of the MiTeam case practice model.

FCRB Program Highlights:
Annual Child Welfare Awards

These awards are presented at our annual conference to formally recognize outstanding work by child welfare professionals.



2013 Winners:

Foster Parents of the Year

Dan and Helen Miller
Calhoun County

Foster Care Caseworker of the Year

Holly Anderton
Bethany Christian Services, Grand Rapids

Parent Attorney of the Year

Chad D. Catalino
Muskegon County

Lawyer-Guardian Ad Litem of the Year

Marikaye Long
St. Joseph County

Jurist of the Year

Honorable John A. Hohman
Monroe County Probate Court



*Front: Holly Anderton, Chad Catlino, Marikaye Long, Judge John Hohman
Rear: James Novell, DHS Director Maura Corrigan*

2013 Press Release:

http://courts.mi.gov/News-Events/press_releases/Documents/FCRBAwards2013_2.pdf



2014 Nominations:

The Foster Care Review Board is pleased to announce that we are accepting nominations for the 2014 awards through September 6. Complete information about submitting a nomination can be found at:

<http://courts.mi.gov/administration/scao/officesprograms/fcrbp/pages/child-welfare-awards.aspx>.

2013 FCRB Board Members

List is representative of board members active through all or part of 2013.

County	Name	Year Joined
Alcona	Carline Bendig	2008
Alcona	Tamara Quick	2007
Alger	Rose Wilbur	2008
Allegan	Vivien Vandenberg	2002
Antrim	Susan Manturuk-Gielda	2005
Arenac	Tifanie Tremble	2012
Barry	Ronald Heilman	2008
Barry	Carol Stanton	2008
Benzie	Rebecca Garland	2011
Benzie	Lynda Jamison	2010
Berrien	Lenore Becker	2012
Berrien	Linda Jo Clough	2013
Berrien	Bridgette Isom	2010
Berrien	Kenneth Orlich	2007
Berrien	Joan Smith	2008
Berrien	Mary Spessard	2011
Branch	Michael Ronzone	2007
Branch	Lucinda Wakeman	2005
Branch	Jerry Yoder	1997
Calhoun	Arlen Facey	2010
Cass	Jill Ernest	2008
Cass	James Ruten	1999
Cheboygan	Marilyn Kapp	2012
Chippewa	Doris Posey	2012
Clare	Donald Murray	2008
Clinton	Pamela Johnson	2013
Clinton	Michael Kessler	2007
Emmet	Kenda Deschermeier	2008
Emmet	Jean Frentz	2011
Genesee	Shuntai Beaugard	2012
Genesee	Shawn Bryson	2012
Genesee	Quincy Dobbs	2011
Genesee	Agnes Greene	2011
Genesee	Lauretta Montini	2009
Genesee	Toyonna Robbins	2011
Genesee	Laura Shephard	2013
Genesee	Gordon Sherman	2009
Grand Traverse	Diana Zapalski	2010
Hillsdale	Martha Crow	2001
Hillsdale	Diane Langan	2011
Huron	Jon Fruytier	2010
Iosco	Alan Gould	2010
Iosco	Vera Middleton	2012
Iron	Bobbi Bonetti	2008
Jackson	Edwina Divins	2001
Jackson	Pamela Fitzgerald	2011
Jackson	Selena Harris	2007
Jackson	Jamie Lynn Horning	2012
Jackson	Diana Liechty	2008
Jackson	Susan Sharkey	2007
Jackson	Harold White	2008
Kalamazoo	Carlos Daniels	2012
Kalamazoo	Linda Dunn	2010
Kalamazoo	Cheryl Nebedum	2012
Kalamazoo	Sally Putney	2004
Kalamazoo	Mary Roberts	2011

County	Name	Year Joined
Kalamazoo	Lisa Rodriguez	2012
Kalamazoo	Helayne Smith	2004
Kalamazoo	Kristin Totten	2013
Kent	Carol Bennett	2012
Kent	Caulene Cobb	2013
Kent	Jan Foxen	2004
Kent	Daniel Groce	1995
Kent	Vernon Laninga	2000
Kent	Jacqueline Rudolph	2007
Lapeer	Carolyn Jill	2013
Lapeer	Jerry Webb	2013
Lenawee	Jonathan Hale	2006
Livingston	Cynthia Salfate	2012
Luce	Ronald Ford	2008
Macomb	Edna Chang	2009
Macomb	Elayne Gray	2006
Macomb	Angie Greenslade	1996
Macomb	Eugene Groesbeck	2000
Macomb	Jack Pittman	2006
Macomb	Rosemary Sear	2006
Macomb	Helen Springer	2011
Macomb	Lynda Steele	2005
Manistee	Marilee Johnson	2005
Manistee	Gary Curtis Madden	2006
Marquette	Cara Korhonen	2008
Marquette	Glenn Wing	2007
Midland	Colin Buell	2011
Midland	Stephen Ignatowski	2005
Midland	James Kubiak	2009
Midland	Michael Love	2011
Midland	Roy Myatt	2011
Monroe	Frederick Corser, Jr.	2000
Monroe	Thomas Perry	2010
Montmorency	Mary Jo Guest	2010
Montmorency	David Smith	2012
Muskegon	Willie German	2009
Muskegon	Janice Hilleary	2012
Muskegon	Edward Holovka	2001
Muskegon	Linda Knapp	2012
Muskegon	Sharon Mazade	2012
Muskegon	Patricia Roof	2009
Muskegon	Melba White Newsome	2007
Newaygo	Larry Feikema	2002
Oakland	Carol Borich	1996
Oakland	Cassandra Chandler	2006
Oakland	Clara Dawkins	2010
Oakland	Lynda DeFrain	2005
Oakland	Janet Evans-Covington	2011
Oakland	Charles Ludwig	2003
Oakland	Kay Norton	2011
Oakland	Gary Shripka	2011
Oakland	Darnita Stein	1997
Osceola	Janice Booher	2009
Ottawa	Linda McGeorge	2013
Ottawa	Dennis Schaaf	2009
Ottawa	Susan Thorpe	2012

County	Name	Year Joined
Roscommon	Jeanette Wiebenga	2011
Saginaw	Barbara Hill	2002
Saginaw	Shirley Norman	2005
Saginaw	Willie Owens	2007
Saginaw	Jerry Schlicker	2012
Sanilac	Linda Bombard	2008
St. Clair	Brendon Aspenson	2010
St. Clair	Kathryn Bruer	1991
St. Clair	Robert Goldenbogen	2000
St. Clair	Deborah Ziegler	2012
St. Joseph	Betty Taylor	2008
Shiawassee	Lynn Nee	2011
Shiawassee	Jorja Ackels	2000
Shiawassee	Jacob Drenovsky	2006
Tuscola	Gary Holik	2006
Van Buren	Jennifer Carpio-Zeller	1999
Van Buren	Meryl Greene	2008
Van Buren	Jan M. Jones	2011
Washtenaw	Vanisha Dejonghe	2013
Washtenaw	Sonja Felton	2009
Washtenaw	Cathy Ann Haynes	2005
Washtenaw	Marion Hoey	2003
Washtenaw	Lisa Ruby	1996
Washtenaw	Gayle Stewart	2000
Wayne	Patrick Arella	2010
Wayne	Nancy Arnold	2009
Wayne	Angela Asteriou	2009
Wayne	Beatrice Bikali	2010
Wayne	Brenda Boyd	1990
Wayne	Brooke Brantley-Gilbert	2001
Wayne	Willie Cambell	2001
Wayne	Johnette Connors	2011
Wayne	Janice Cowan	2011
Wayne	Paula Cunningham	2011
Wayne	Tonie Dance	1998
Wayne	Marvin Dick	2004
Wayne	Katrina Dixon	2011
Wayne	George Eason	2002
Wayne	Michael Eberth	2001
Wayne	Doncella Floyd-Jones	2005

County	Name	Year Joined
Wayne	Remberto Gomez-Baez	2001
Wayne	Michael Greene	2013
Wayne	Brenda Godfrey	1998
Wayne	Mary Hammons	2003
Wayne	Warren K. Harrison	2005
Wayne	Felisha Hatcher-Taylor	2009
Wayne	Jonas Hill, Sr.	2001
Wayne	Loretta Horton	1997
Wayne	Kathie House	2003
Wayne	David L. Hunt	2006
Wayne	Darryl V. Hunter	2001
Wayne	Joy Inniss-Johnson	2010
Wayne	Yvette Jenkins	2005
Wayne	Ethel Knight	1996
Wayne	Darryl Lewis	2011
Wayne	Sandra Mesara	2013
Wayne	Judy Mock	2009
Wayne	Ronald Moore	2008
Wayne	Jacqueline Moss-Williams	2007
Wayne	Daphne Nedd	1992
Wayne	Don Novak	2008
Wayne	Elizabeth Oliver	1988
Wayne	Anitta Orr	2009
Wayne	Rita Ross-Price	2000
Wayne	Wain Saeger	2011
Wayne	Edna Samuel	2013
Wayne	Nancy Silveri	2011
Wayne	Janine Sladewski	2007
Wayne	Rita Smythe	2009
Wayne	Willie Stanley	1997
Wayne	Ellen Stephens	1997
Wayne	Irene Stringer	2009
Wayne	Kimberly Sutherland	2011
Wayne	Carol Terpak	2005
Wayne	Theresa Thomas	2011
Wayne	Robert Thomas	2011
Wayne	Sara Tyranski	2003
Wayne	Pamela Wilson-Travis	2009
Wayne	Claudia Yates	2009



2013 Advisory Committee Members

List is representative of committee members active in 2013. **Bold** denotes Executive Committee.

Name	Title
Casey Anbender	Mgmt. Analyst, Child Welfare Services
Linda Bombard	Board #14, Sanilac County
Paula Cunningham	Board #4, Wayne County
Clara Dawkins	Board #7, Wayne Co`unty
Kenda Deschermeier	Board #28, Emmet County
Marvin Dick	Board #1, Wayne County
Quincy Dobbs	Board #13, Genesee County
Jacob Drenovsky	Board #18, Shiawasee County
Linda Dunn	Board #22, Kalamazoo County
George Eason	Board # 5, Wayne County
Michael Eberth	Board # 9, Wayne County
Jill Ernest	Board #25, Cass County
Ryan Fewins-Bliss	Board President, CASA of Michigan
Ronald Ford	Board #30, Luce County
Jeanne Fowler	Child Advocate, Big Family of MI
Jan Foxen	Board #21, Kent County
Alan Gould	Board #29, Iosco County
Elayne Gray	Board # 12, Macomb County
Jonathan Hale	Board # 17, Lenawee County
Marcia Haney	PRIDE Trainer, MAFAK
Warren Harrison	Board # 8, Wayne County
Terri Henrizi	Education Coordinator, ACMH
Jonas Hill, Sr.	Board #3, Wayne County
John Hohman **	Former Chief Judge, Monroe County Probate Court
Edward Holovka	Board #23, Muskegon County
Yvette Jenkins	Board #3, Wayne County

Name	Title
Marilee Johnson	Board #27, Manistee County
Jan M. Jones	Board #24, Van Buren County
Ruth Kenaga	President, MAFAK
Vernon Laninga	Board #21, Kent County
Courtney Maher	Seita Scholar, Western MI University
Cheryl Mask	Board #16, Ingham County
Rubina Mustafa	Attorney, Detroit Center for Family Advocacy
Al Myatt	Board #26, Midland County
Shirley Norman	Board #19, Saginaw County
Kathryne O'Grady	System of Care Director, 3rd Jud. Circuit Court
Seth Persky	Interim Director, Office of Family Advocate, DHS
Jack Pittman	Board #12, Macomb County
Kadi Prout	Policy Analyst, MI Fed. for Children & Families
Janet Reynolds Snyder	Executive Dir., MI Fed. for Children & Families
Nancy Rostoni	Foster Care Manager, Michigan DHS
Lisa Ruby	Board #15, Washtenaw County
Verlie Ruffin	Director, Children's Ombudsman
Nancy Silveri	Board #4, Wayne County
Leslie Kim Smith	Judge, 3rd Circuit Court, Family Division
Rita Smythe	Board #4, Wayne County
Mary Spessard	Board #25, Berrien County
Carol Stanton	Board #18, Barry County
Suzanne Stiles-Burke	Director, Bureau of Child Welfare, MI DHS
Lucinda Wakeman	Board # 20, Branch County
Addie Williams	Exec. Director, Spaulding for Children

** Judge Hohman resigned the FCRB Advisory Committee on 11/15/13 and is the current State Court Administrator.

FCRB Report: Legal Representation for Children in Foster Care

The following report was submitted by the Foster Care Review Board to the State Court Administrative Office.

Introduction

In the 2006 Foster Care Review Board Annual Report, we identified three systemic issues that we believed required immediate attention if Michigan were to achieve positive outcomes for children served by our state's foster care system on a relatively consistent basis. The issues identified were: (1) timeliness of adoptions, (2) effective casework, and (3) high quality representation of children by the court appointed lawyer-guardian ad litem (LGAL).



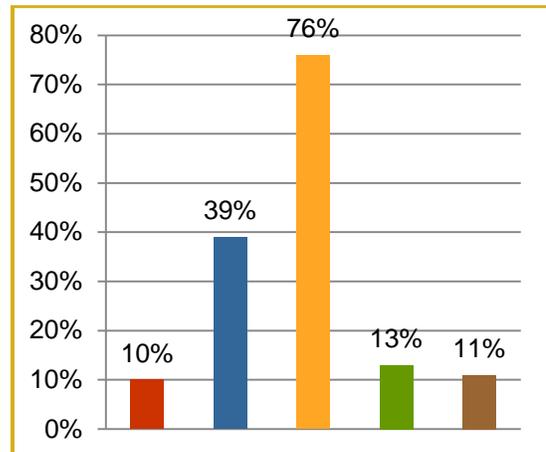
With regard to timeliness of adoptions, the Foster Care Review Board (FCRB) has seen significant improvement in both the timeliness of adoptions and a concurrent decrease in the number of children available for adoption. This is much to the credit of former Supreme Court Justice Maura Corrigan, who is now Director of the Department of Human Services. Too many older children with special needs still remain listed for long periods with the Michigan Adoption Resource Exchange (MARE), though, and will ultimately have their permanency goal changed from adoption to APPLA (Another Planned Permanent Living Arrangement) and age out of the system without a permanent legal family.

FCRB concerns related to effective casework have been partially addressed, primarily in response to the Children's Rights lawsuit, with the reduction in direct service and supervisory caseloads, as well as more clearly defined educational requirements. Legislation was recently introduced to codify caseload size. However, caseworkers continue to express having insufficient time to work directly with families, particularly in regard to keeping parents adequately engaged with their children. The board also remains concerned about the ongoing problem of caseworker turnover, which impacts the continuity of a case and often delays permanency, particularly in cases where the permanency goal is reunification.

The prevalent issue remaining from our 2006 report is related to the legal representation of children by the court appointed lawyer-guardian ad litem, who, according to Michigan statute, is chiefly responsible for evaluation and representation of a child's best interests throughout the course of a child protection case. These statutory responsibilities are outlined in [MCL 712A.17d](#).

Prior to discussing our concerns regarding LGAL representation, we would like to make note of certain improvements that have occurred. Most noticeably, in the majority of cases reviewed, LGALs are visiting with children before court hearings, although many such visits are lacking in quality. Wayne and Genesee Counties have implemented attorney groups assigned to courtrooms to help ensure continuity of representation, regular visitation, and reduced waits between hearings. We have also noted exemplary representation by a number of individual attorneys who meet or exceed the statutory requirements of the LGAL position.

Data Re: Lawyer-Guardian ad Litem Involvement		
Total Children Reviewed	1426	
Reviews LGALs attended	141	10%
Questionnaires LGALs returned	547	39%
LGAL visited child	1085	76%
LGAL did not visit child	187	13%
Unable to determine or N/A	149	11%



In spite of such improvements, the quality of representation reported to and observed by our citizen review board members remains less than adequate, at best, and possibly fraudulent at times.

The FCRB is highly concerned with the fact that in Michigan, children and youth are rarely encouraged to participate in scheduled court hearings, despite the fact that these children are identified as parties to the case. This is unfortunate, as their present and future safety and well-being is addressed at these hearings, and the children often know best what has taken place in their own families and whether the system is functioning well for them or not. Therefore, the need to provide competent and dedicated legal representation is essential, as the LGAL is the one entrusted with the responsibility of objectively representing the child’s views and best interests before the court.

Items from our 2006 report related to legal representation of children that continue to be of significant concern include:

1. Failure of the LGALs to conduct a thorough independent investigation of their child client’s best interests as required by statute.

In many of the cases we review, LGALs have not talked with either the caseworker or foster parents regarding their child client. It is even rarer to find that they have talked with the child’s parents, teachers, or therapists. Furthermore, staff and review board members who observe statutory hearings often note that LGALs appear to have neither a good understanding of the circumstances of the case, nor an adequate grasp of the complex

social and clinical issues presented. LGALs often appear to just “rubber stamp” the caseworker’s recommendations without explanation as to why they agree with them. Furthermore, many substitute attorneys appear to know little regarding the case or the child.

2. Failure of the LGALs to meet with or communicate with their child clients before each court hearing in a substantive manner that allows them to obtain knowledge of their child client’s views and needs and communicate important information to their child clients.

Children, youth, and foster parents frequently report that when the LGAL does meet with the client, it is brief and often just a few minutes before the court hearing. Youth and children we interview report that LGALs did not clearly advise them of their roles and responsibilities in the case, did not inform them of their right to attend court hearings or encourage them to do so, spent little time getting to know them, and failed to encourage contact when needed.



Our observations are consistent with those noted by members of the Michigan Youth Opportunities Initiative (MYOI), an organization of present and former youth in foster care. They noted in an advocacy document published by the Michigan Department of Human Services in 2010 called *VOICE 3*, in a section titled “Giving Us a Voice in Court,” the following:

We do not see our lawyer-guardian ad litem (LGAL). We are not always aware of our court dates or that we should attend. Our LGALs are supposed to be representing us. Yet, often we do not hear from them at all. If we do hear from them it is right before the court date. We don’t have time to build relationships with them so we can trust them enough to talk to them. Also, we do not always know what types of information they need to know. Regardless of how well our case planning is going, many of the most important decisions are made in court. We need to be there with representatives who understand us, our case and what we want the court to know.

The youth recommendations from that document are listed below:

- Make sure that current policy is implemented and that youth understand what they should expect from the LGAL.
- Require that youth ages 14-20 be present at their court hearing unless they sign a refusal form.
- Require that youth are provided with at least one hour to discuss their case with the LGAL, at least one week prior to the hearing.
- Require a follow-up call one day prior to the hearing.
- Provide an efficient process for youth to contact the court if they are not being fully engaged by their LGAL.

On a positive note, older youth who did report having a substantive relationship with their LGAL saw it as being helpful to their successful navigation of the foster care system and transition to adulthood.

3. Lack of consistent accountability for fulfillment of statutory responsibilities.

The FCRB continues to see cases where the LGAL informs us, or it is noted on the court order (pursuant to MCR 3.915(B)(2), that the LGAL has complied with the requirements of MCL 712A.17d and contacted or met with the client. However, in a number of such cases, information received from the youth and/or foster parent indicates that the LGAL has never contacted or visited them. Typically, this apparent contradiction is noted in our report, and we ask the court to address the matter at the next hearing.

Caseworkers and foster parents who have attended court hearings have informed us that they were not aware of the jurist asking the LGAL on the record if they have fulfilled their statutory responsibilities to their child clients. If the judges who appoint the LGALs do not diligently ensure the attorneys have met with their child clients and gained an informed perspective on their clients' needs and best interests, there is no guarantee the needs and interests will ever be adequately represented to the court.

A number of counties are using the State Court Administrative Office (SCAO) recommended "Affidavit of Services Performed by the Lawyer-Guardian Ad Litem," which is a formal statement signed by the LGAL attesting that he or she has performed his or her statutory duties. This is not only best practice, but also essential to ensuring compliant representation of the children.

4. Lack of required training and/or experience to effectively determine and represent the child client's best interests before the court.

The literature regarding LGAL representation is very clear that without an adequate grasp of the social and clinical issues presented in the case, the LGAL will be unable to accurately assess the best interests of a child client or make informed recommendations.

Michigan historically has not required LGALs to have any specialized training or experience to be appointed to such complex cases, the outcomes of which will have life-long implications for the children they represent. A number of local courts do require and provide some training; however, the scope and content of that training is unknown to the board.

In response to the 1974 Federal Child Abuse Prevention and Treatment Act (CAPTA), 2010 Reauthorization, MCL 712A.17d was recently amended to require the LGAL to participate in training for early childhood, child, and adolescent development. It is unclear as to how compliance with this requirement is presently being monitored.

Additional areas of concern have also come to the board's attention since our report in 2006. First, LGALs often do not appear to have an adequate knowledge of DHS policies that impact the safety, well-being, and timely permanency of the children they represent.

Substitution of counsel is another area of concern. Caseworkers have reported a number of instances where there has been a substitute LGAL who knows little about the child or the case. MCL 712A.17d(1)(h) requires the LGAL to attend all court hearings, and substitute representation for the child should occur only with court approval. The board expects that the court, prior to granting such approval, would seek assurance that the substitute has adequate knowledge of the child and the case.

The board's final area of concern is related to MCL 712A.19a(3), which requires courts to obtain the child's views regarding his or her permanency goal during each permanency planning hearing. The Legislature enacted this law in response to the federal Child and Family Services Improvement Act of 2006¹, which requires that states develop procedural safeguards to ensure the courts conduct age-appropriate consultations with foster children regarding their permanency goals. It is unclear to the FCRB how local courts are complying with this statute. SCAO Court Form JC19 (Order Following Dispositional Review/Permanency Planning Hearing) does not cite this statute, nor does it provide any indication as to if and how such a consultation has been obtained. In a related memorandum from the SCAO to the presiding circuit court judges dated March 5, 2009, it was recommended that the child's LGAL be allowed to obtain and communicate the child's views to the court. The board is unaware if this recommendation was adopted or if any other protocol to obtain this vital information is in place at the local courts.

Issues Related to the Child's Right and Need for Quality Representation in Child Abuse and Neglect Cases

Overview

The court in child protection proceedings operates beyond its usual role as an arbiter between contending litigants. In child welfare cases, when the court takes jurisdiction of the child and brings him or her into foster care, the state steps in to function as the temporary legal parent. However, this parental role is played out not in a home as an individual who can monitor, nurture, and supervise the child on a daily basis and ensure firsthand the child's safety and well-being, but through intermittent statutory



¹ 42 USC 675(5)(c), as amended by Public Law 109-2881, requires a state's foster care case review system to include procedural safeguards to assure in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

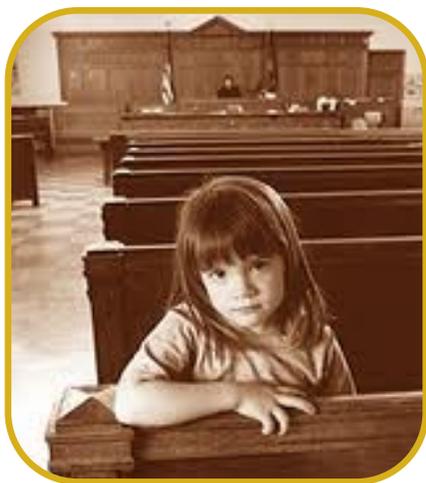
hearings. The court must rely on those it has appointed to that purpose, beginning with the child placing agency (DHS or its contracted agencies) personnel, who have been assigned care and supervision of the child. The court appoints the LGAL to independently evaluate and monitor the child's best interests in regard to safety, well-being, and timely achievement of a safe, stable, and permanent family. The LGAL's findings and recommendations are to be presented to the court at each hearing.

Federal Law

Children in abuse and neglect cases have a basic right to effective counsel in protective proceedings, a right that has increasingly been recognized through both federal statute and case law.

The **1974 Federal Child Abuse Prevention and Treatment Act (CAPTA)** requires states to document in their state plan provisions for appointing a guardian ad litem (GAL) to represent the child's best interests in every case of abuse or neglect that results in a judicial proceeding. The GAL may be an attorney or a court-appointed special advocate (CASA) - or both - who has received appropriate training.²

In 1996, Congress reauthorized CAPTA and amended the language to state that a lawyer may be appointed as a GAL and that the GAL's role is to obtain a clear understanding of the child's situation and needs and to advocate for the best interests of the child. After the 1996 amendment, many courts reportedly were appointing attorneys for the child without ensuring that the individuals had undergone adequate training. In 2003, Congress addressed this problem by again amending CAPTA. The purpose of the 2003 amendments was to ensure higher quality representation and to bar appointment of untrained or poorly trained court-appointed representatives for children. The 2010 CAPTA reauthorization states:



*“In every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings— (I) to obtain **first-hand**, a clear understanding of the situation and needs of the child; and (II) to make recommendations to the court concerning the best interests of the child....”*

Thus, states, counties, and local courts have a responsibility to ensure that abused and neglected children have effective legal representation by competent lawyers who are able to advocate for these children from a position of knowledge with respect to their placement, medical, psychological, and educational needs, as well as independently and objectively evaluate and represent the children's best interests.

² Child Abuse Prevention and Treatment Act, 1974, P.L. 93-247 (42 USC 5101 *et seq*; 42 USC 5116 *et seq*.)

In Michigan, LGALs are required to evaluate the child's best interests and promote these interests to the court. Their duties and responsibilities are statutorily mandated and clearly delineated in MCL 712A.17d. The statute, however, also allows for the appointment of an additional and separate attorney for the child when the wishes of the child and the LGALs determination of the child's best interests conflict.

Related Research and Literature

There are very few comprehensive empirical studies of representation for children in protective proceedings. The one most widely referenced was published in 2008 by the Chapin Hall Center for Children and based on a study in Palm Beach County, Florida, wherein children with legal counsel in dependency cases were compared to children without. It was found that children with legal counsel moved to permanency at a rate almost twice that of unrepresented children. The study did not go beyond this statistic to identify what constituted "quality legal representation," nor did it identify specific benefits of legal representation to child safety and well-being.

In October 2009, The Children's Bureau of the U.S Department of Health and Human Services' Administration on Children, Youth, and Families awarded a five-year, five-million-dollar grant to the University of Michigan Law School's Child Advocacy Clinic. The grant establishes a National Quality Improvement Center (QIC) to generate and disseminate knowledge on the representation of children and youth in the child welfare system. Consultation with Professor Donald Duquette, who leads the QIC, indicates that the project's research on child representation is currently ongoing and focuses on the clinical skills and approaches necessary to provide quality representation and improved outcomes for children in child abuse and neglect cases. Data is being collected from lawyers, courts, and state agencies over a four-year period through June 2015. This research should reveal a great deal about the benefits of having well trained and adequately supported lawyers representing children in child abuse and neglect cases. Related information can be found at their website: www.improvechildrep.org.

Despite the lack of empirical research, there is much scholarly literature describing what quality representation looks like for children in protective proceedings, particularly with regard to determining a child's best interests. The literature suggests that the lawyer must interview persons with knowledge of the child's history (parents), present functioning (foster parents/teachers), treating professionals (therapists), and the case manager to develop sufficient knowledge of the child's circumstances and needs. The literature emphasizes that the lawyer must take time to establish a trusting relationship with the child to enlist the child's cooperation in both expressing their wants and assessing their best interests. It further notes that determining the best interests of infants and very young children, who make up a large percentage of our foster care system, is a challenge that requires specific related training.

Candice Maze, author of *Advocating for Very Young Children in Dependency Proceedings: the Hallmarks of Effective, Ethical Representation*, states: "Effective advocacy for a very young child can change that child's life forever....Effective and ethical representation often demands that the attorney be proactive, seeking out opportunities to observe and interact with their very young child client and speed the

legal process while assuring the maintenance of the child’s critical relationships.” She notes that some attorneys fulfill their statutory responsibility by observing the very young child with their parent during visitation and advises of the importance of attorneys having a firm understanding of child development and related issues.

Jean Koh Peters, author of *Representing Children in Child Protective Proceedings: Ethical and Practical Dimensions*, states that the child’s attorney, “whether assigned to represent a child’s wishes or her best interests, must ground her representation in a thickly textured understanding of the child’s world and the child’s point of view.”

Barriers to Quality Representation

The literature and some of the preliminary research that is being carried out presents three primary barriers to quality representation of children in child protective proceedings:

1. Lack of required training and/or experience standards;
2. Inadequate compensation; and
3. Caseload management.

The following will address these barriers and briefly address a number of other administrative challenges that have been cited as barriers in Michigan to quality LGAL representation.

In the board’s correspondence with Professor Donald Duquette, he advised that "child and parent representation requires an administrative structure that supports good lawyers who choose to do this important work and find personal rewards in it and who have regular basic and advanced training, along with mentorship from more senior lawyers." He noted: “It is unfair to blame the individual lawyer for shortcomings if they are not paid properly and do not have (the) opportunity for ongoing professional development and support or where they would much rather be doing bankruptcy or medical malpractice cases.”



The administrative structure in which LGALs practice was also noted as a barrier to quality representation by Christine Piatkowski, current president of the Children’s Law Section, State Bar of Michigan. Ms. Piatkowski noted a number of problematic court and DHS policies and practices that impact quality of representation:

- Failure to provide the LGAL with adequate information upon initial appointment;
- Court scheduling systems that result in multiple adjournments and/or hearing cancellations;
- Poor scheduling of hearings that require long, unproductive waits that impact the efficient utilization of the attorney’s time;
- Lack of allotted time at hearings for the LGAL to adequately present the case;

- Poor communication between DHS or its contracted agencies and the LGAL; and
- Placement of children by DHS into homes that are a significant distance from the county of jurisdiction.

The board would note that many of the above-referenced barriers to quality LGAL representation were identified in a formal evaluation in 2002 by the American Bar Association Center on Children and Law, as part of a study jointly commissioned by the Michigan Governor’s Task Force on Children’s Justice and the State Court Administrative Office.³ A number of recommendations were included in this study to address these barriers; however, it does not appear that these recommendations have been acted on to a sufficient degree to date.



1. Training and Experience

The National Council of Juvenile and Family Court Judges (NCJFCJ) determined from its research that “the number one barrier to quality representation is inadequate training.” The literature and present practice suggest that only a few attorneys accept this assignment prepared for the unique challenges of work in the complex world of child welfare, to the detriment of the children they are representing.

While there are many well qualified and experienced LGALs serving Michigan’s children, most attorneys who accept child welfare cases have little training or education in the tasks required to effectively represent children in child abuse and neglect cases, particularly the ability to assess and make best-interest recommendations, which requires an extraordinary range of knowledge and skills.

The literature emphasizes that in addition to core lawyering tasks, including knowledge of juvenile and dependency law and policy, LGALs must acquire at least a fundamental knowledge of children and child development; childhood trauma; family systems and parental alienation theory; substance abuse and mental health issues; cultural competency, particularly in regards to the culture of poverty; and a familiarity with other social and psychological constructs that strongly influence judicial decisions. Unless attorneys have this type of experience and training, it is unreasonable to believe that children are receiving the quality representation they need and deserve.

While Michigan now statutorily requires the LGAL to receive training in early childhood, child, and adolescent development, the other training and experience requirements noted above are not generally required for appointment, nor are there any requirements for continuing education, which would encourage attorneys representing abused and neglected children to obtain necessary skills and knowledge.

³ Gary A. Lukowski and Heather J. Davies, ABA Center on Children and the Law, *A Challenge for Change: Implementation of the Michigan Lawyer- Guardian Ad Litem Statute* (2002).

Despite the lack of initial and continuing education requirements, the SCAO Child Welfare Services (CWS) division and the Governor's Task Force on Child Abuse and Neglect annually offer a number of local and statewide trainings, some specific to children's attorneys, as well as multidisciplinary child welfare trainings that are beneficial to attorneys trying to obtain the requisite skills and knowledge in this field. Upon request, CWS will develop a specialized training program specific to the needs of the counties. CWS also produces numerous publications and resource materials regarding various issues that touch the lives of children involved in protective proceedings.

According to First Star, a children's advocacy institute that evaluates each state's statutory provision of legal representation for children in dependency cases, a number of states do have some level of mandatory training for these attorneys. In their latest nationwide evaluation, Michigan received very high grades for statutory requirements, except in the area of training.

The National Association of Counsel for Children (NACC) offers accredited certification for attorneys representing abused and neglected children, has established certification in jurisdictions across the country, and qualifies attorneys as Child Welfare Law Specialists. The certification reflects significant experience, training, and understanding of issues in child welfare law. NACC Certification is currently available in 32 states, including Michigan, although only a few states require it.

2. Compensation

The minimal compensation paid to an LGAL has consistently been noted as the primary reason given by attorneys for not fulfilling the requirements of MCL 712A.17d and by judges for not fully requiring that attorneys do so.

The board does not have access to compensation schedules from the various courts. However, from what we understand, compensation is substantially below what a private attorney would be paid for this level of work, and even below what is paid for indigent adult criminal attorneys.

Compensation rates and plans, as well as contractual obligations, vary by court jurisdiction; some jurisdictions provide hourly compensation with a cap, others a flat fee per case. Out-of-pocket expenses, including travel, are paid in some jurisdictions but not others. Wayne and Genesee Counties use contracted attorney groups, with each group determining how their attorneys are compensated.

The professional literature also recognizes that low compensation often results in under qualified, less committed individuals and higher turnover. The U.S. Department of Health and Human Services, in a commentary to its related Administration for Children and Families guidelines, names low compensation as one of the primary causes of inadequate legal representation in child welfare cases. It is suggested in the literature that inadequate compensation often leads to less-qualified attorneys accepting these assignments, while more-qualified attorneys pursue practice in the other areas of law, as was noted by Professor Duquette. Due to poor levels of compensation, attorneys representing children in these cases often find it economically necessary to carry large caseloads or supplement their practice with other higher-fee

work, both of which restrict their ability to provide adequate representation for their individual child clients.

3. Caseloads

State law does not address caseload standards for attorneys representing children in child protection proceedings. While the board does not have accurate figures regarding attorney caseloads statewide, attorneys in the larger urban counties have reported caseloads of 200 children or more.

The literature emphasizes that in order for attorneys to provide quality representation to children in child abuse and neglect proceedings, attorneys must have reasonable caseloads that allow them the time to build relationships with their child clients and perform a credible independent investigation of the child's best interests. Thus, the board believes that attorneys have an ethical duty to restrict the size of their caseloads in order to fulfill the statutory requirements of MCL 712A.17d.

An American Bar Association (ABA) Formal Opinion in 2006⁴, directed primarily to the public defender community, but generally applicable to all attorneys facing excessive caseloads, directs attorneys to decline excessive representations. First Star reports that nationally, several states have recognized the importance of this issue and have implemented caseload limits to ensure that children receive the attention and quality legal representation that they so deserve. A caseload ceiling of 100 individual clients for a full-time attorney has been recommended by both the American Bar Association and the National Association of Counsel for Children.

Summary and Conclusions



Federal law establishes a child's legal, moral, and ethical needs and rights in protective proceedings to have competent and committed representation throughout a legal process that is supposed to ensure his or her safety and well-being while parents are unable or unwilling to do so and to facilitate the child's placement in a safe, stable, and permanent home as quickly as possible.

Michigan law, namely MCL 712A.17d, was enacted to comport with federal law. This statute clearly outlines the activities and responsibilities of lawyer-guardians ad litem in their representation of the child client's best interests before the court, while ensuring their legal rights are upheld.

The literature identifies two primary factors that are essential to providing quality representation for these children:

1. Training and experience; and
2. Duration and quality of interaction with the child client.

⁴ *ABA Commission of Ethics and Professional Responsibility, Formal OP 06-441 (2006).*

Effective representation requires that attorneys have the training and experience necessary to evaluate the impact of complex social, psychological, and cultural issues on their child client's safety and well-being. Attorneys must also spend sufficient time with their clients in order to build a relationship in which they can accurately determine their client's desires and best interests.

Michigan law does not require such training or experience for attorneys representing children in protective proceedings. In addition, the present compensation structure does not afford these attorneys the time and resources necessary to fulfill their statutory and professional obligations to their child clients. This can and often does lead to perfunctory, passive, or poor representation of these children, which should not and cannot be acceptable to those entrusted with their care.

Our state and counties must be willing to provide adequate compensation to attract and retain good attorneys and require training and experience that is commensurate with the complex issues the attorneys must understand and address on their clients' behalf throughout proceedings that will have dramatic consequences on the children's lives. In addition, local courts must be willing to provide an administrative structure that reinforces the importance of quality representation for children in our foster care system. The failure of state and local leadership to address these concerns can only lead to the conclusion that either the welfare and well-being of these children does not matter or the legal representation of these children is of little consequence to the outcome of the case.

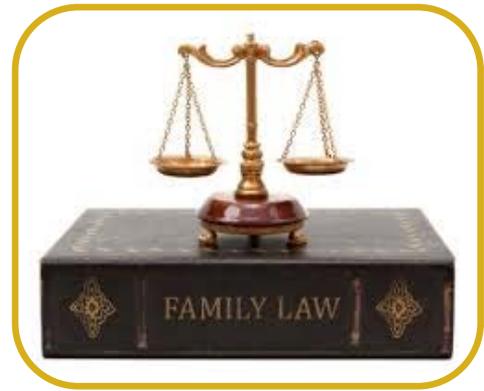
The FCRB therefore urges the state Legislature and the local governing bodies responsible for court budgets to provide sufficient funding for **quality** legal representation of children in foster care. We also strongly encourage the state Legislature, the State Court Administrative Office, the local courts, the Department of Human Services, the State Bar Association, and university law schools to work together to ensure that training and administrative structures are in place to establish, support, and maintain quality representation for our state's most vulnerable population, whose futures depend on it.



FCRB 2013 Recommendations

1. **We recommend** that SCAO develop a brochure and/or video aimed at children, school age and older, that provides them with a clear understanding of their right to legal representation and the roles and duties of the LGAL on their behalf.
2. **We recommend** that MCL 712A.17d be amended to include minimum qualifications for an attorney to serve as an LGAL that ensure the attorney has the requisite knowledge and experience to provide quality representation.
3. **We recommend** that the Michigan Supreme Court and/or the Michigan Legislature establish continuing education requirements for attorneys representing children in child abuse and neglect cases.
4. **We recommend** that the Michigan Legislature, in collaboration with the Michigan Association of Counties and the State Bar of Michigan, initiate a study to determine a fair compensation structure for attorneys representing children in abuse and neglect cases, with the Legislature determining how to fund such compensation. Based on the results of this study, we recommend that the Michigan Legislature work with the Michigan Association of Counties to establish a range of compensation commensurate with the duties required by MCL 712A.17d.
5. **We recommend** that Michigan adopt by statute or court rule maximum caseload standards for attorneys representing children in child abuse and neglect cases that will allow them to adequately perform the duties required by MCL 712A.17d.
6. **We recommend** that the SCAO establish a standardized model contract for use by the courts that specifies the activities required of an attorney in order to meet statutory requirements and ensure quality representation to their child client. We recommend that the contract include the requirement of at least one visit to the child's placement to ensure it is in the child's best interests.
7. **We recommend** that the SCAO work with local courts to establish quality assurance measures and protocols to ensure children are receiving quality representation.
8. **We recommend** that, in order to facilitate LGAL visitation, the DHS ensure compliance with placement policy requiring that children not be placed outside of a 75-mile radius of the home from which they were removed, unless they meet the criteria for exceptional circumstances noted in DHS Policy FOM 722-03.
9. **We recommend** that SCAO court form JC19 be amended to include a provision to verify the court's compliance with MCL 712A.19a(3), which is the requirement to obtain a child's views regarding the permanency plan.

Bibliography



Dobbin, Shirley A. (1998). *Child abuse and neglect cases: Representation as a critical component of effective practice*. Reno, NV: National Council of Juvenile and Family Court Judges, Vol. II.

Duquette, D., with Darwall, J. (2012). Child representation in America: progress report from the National Quality Improvement Center, *Family Law Quarterly*, Vol. 46 (No. 1).

Frederick, W. K., University of San Diego, & First Star (Organization: Washington, D.C.) (2009). *A Child's Right to Counsel: A National Report Card on Legal Representation for Abused & Neglected Children* (3rd ed). Washington, D.C: First Star.

Glesner Fines, Barbara (2008). Pressures toward Mediocrity in the Representation of Children, *Capital University Law Review*, Vol. 37 (No. 2).

Maze, Candice L., JD (Oct. 2010). Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation. *American Bar Association Practice and Policy Brief*, ABA Center on Children and the Law.

Peters, J. K. (2007). *Representing children in child protective proceedings: Ethical and practical dimensions* (3d ed). Newark, NJ: LexisNexis.

Sobe, Merrill (2006). *The Child Client :Representing Children in Child Protection Proceedings*. Pace University School of Law, 22 Touro Law Review 745.

Zinn, A. E., & Slowriver, J. (2008). *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County*. Chapin Hall Center for Children at the University of Chicago.

Update: FCRB 2012 Recommendations

The Foster Care Review Board's 2012 Annual Report, which addressed the issue of psychotropic medications and children in foster care, contained the following recommendations to the Michigan Department of Human Services (MDHS) and the State Court Administrative Office (SCAO):

1. We recommend that the MDHS establish supervisory and continuous quality improvement protocols to help ensure that requirements of the Health Oversight and Coordination Plan and related policy regarding prescribing and monitoring of psychotropic medication are implemented consistently throughout the foster care system.
2. We recommend that the MDHS establish training requirements regarding psychotropic medication for foster care caseworkers and licensed foster parents that will provide them with the information they need to effectively monitor and advocate for a child's needs in this area.
3. We recommend that the MDHS continue to work diligently with the Department of Community Health (DCH) and the state Legislature to promote and fund the utilization of trauma informed and evidence-based practices in the treatment of emotional and behavioral disorders of children in foster care.
4. We recommend that the MDHS collaborate in the development of a broad range of trauma-informed, developmentally, and culturally appropriate programs that help improve the standard of care for foster children with emotional and behavioral disorders.
5. We recommend that the State Court Administrative Office (SCAO) provide ongoing training opportunities for judges and attorneys to obtain the knowledge and information necessary to effectively review and assess if a child is receiving treatment for their mental and behavioral health needs that is truly in the child's best interests.
6. We recommend that the DHS ensure that court reports include information on psychotropic medication the child is prescribed, the reason for the medication and if and how the child is benefitting from the medication.



The MDHS provided a formal written response to the board's recommendations indicating their agreement with the recommendations and describing practices and initiatives that were in place or were being developed to address the recommendations. Key practices and initiatives include the following:

- Establishment of criteria and protocol for triggering closer review and evaluation of medication prescribing pattern, including data sharing with the Department of Community Health.
- Provision of regular trainings for staff that provide an overview of mental health disorders, medication, psychosocial interventions, and related casework practice. The Child Welfare Training Institute provides an e-learning course entitled “Intro to Mental Health.”
- An initiative is in place to develop evidence-based mental health screening tool for children in foster care.
- Increased collaboration with the Department of Community Health to improve access to an array of mental health services for children in foster care, including access to trauma-based services.
- A collaborative initiative with the Michigan Department of Community Health Medicaid Pharmacy Division to establish a Psychotropic Medication Oversight Unit that will be housed within the DHS Child Welfare Medical Unit. In September 2013, a Pharmacy Claims Data Specialist joined the unit. Two contracts are in development to hire part-time psychiatrists or physicians, who will work with the DHS Medical Consultant to evaluate specific cases that have met established criteria, thus triggering further review.
- Reports developed within the MiSACWIS system will focus on mental health treatment, including psychotropic medication use, target symptoms, and benefits. This report will be included in Initial and updated services plans.



In response to recommendation 5, the State Court Administrative Office, Child Welfare Services Division, conducted a statewide cross-disciplinary training on psychotropic medications in November 2013. The Governor’s Task Force on Child Abuse and Neglect is also sponsoring a statewide training on this topic in May 2014.

The 2012 Annual Report is available at the Michigan Courts website:

http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Reports/fcrb/fcrb_ar12.pdf.

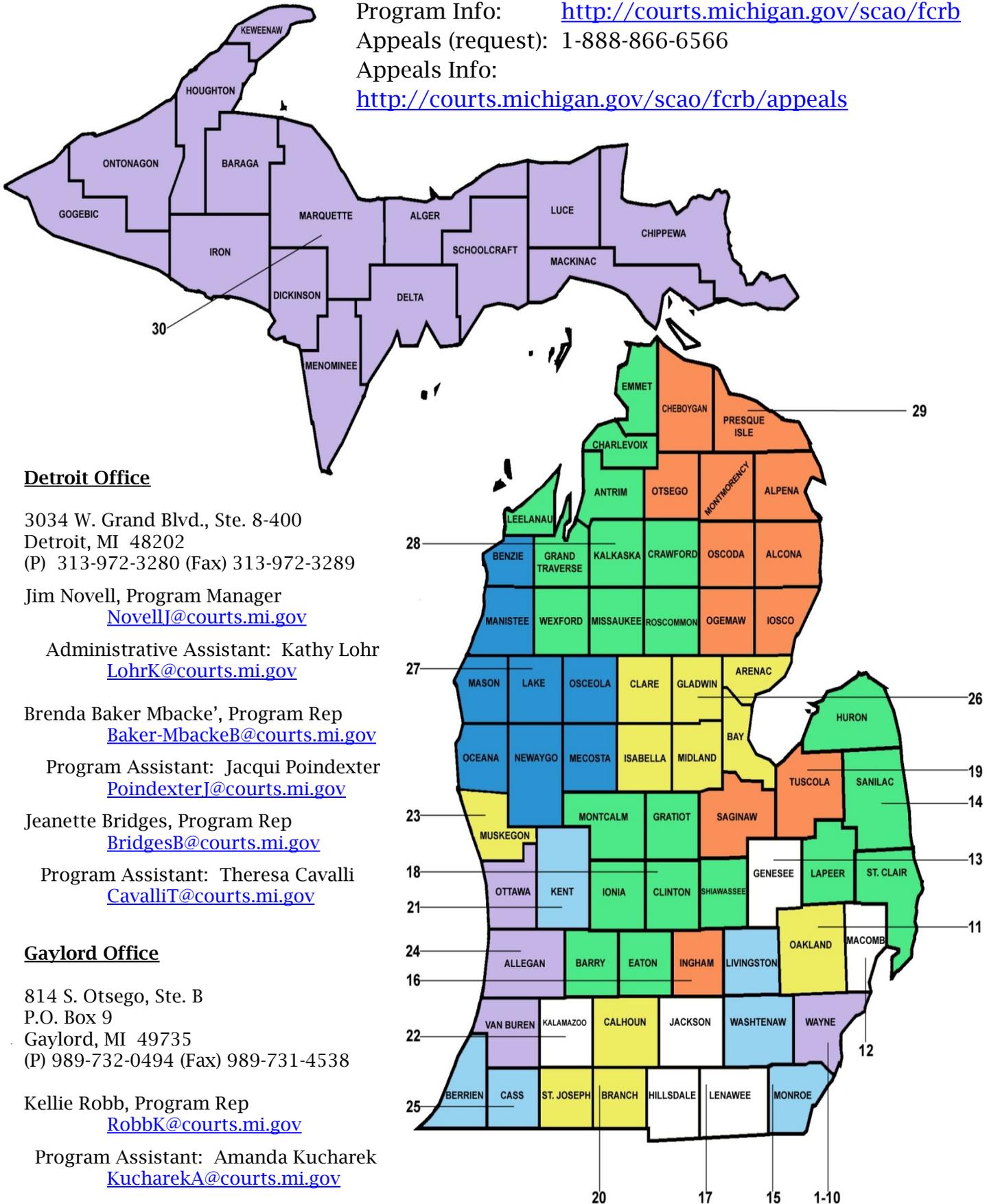
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