



Supreme Court
STATE OF LOUISIANA
New Orleans

CHIEF JUSTICE

JOHN L. WEIMER

JUSTICES

WILLIAM J. CRAIN

SCOTT J. CRICHTON

JAMES T. GENOVESE

JAY B. MCCALLUM

JEFFERSON D. HUGHES III

PIPER D. GRIFFIN

Sixth District

First District

Second District

Third District

Fourth District

Fifth District

Seventh District

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May 27, 2021

Re: Early Appointment of Attorneys-Child In Need of Care Proceedings

Dear Louisiana Judges with Juvenile Jurisdiction:

Thank you for your service, dedication, and devotion to addressing the problems of those who are among our most important and vulnerable citizens-- the children of Louisiana. The work of all judges is special, but your work is particularly special because each day you have to decide the future of those who are the future of our state.

We are always trying to provide the best outcome for each and every child. Periodically, we engage in self- evaluation. During the most recent Child and Family Services Review ("CFSR") conducted by the federal Children's Bureau ("CB"), it was discovered that Louisiana children who come to the attention of our state child welfare system are being separated from their parents, when many could have remained with their families with adequate services and support. The CFSR of Louisiana's foster care system found that only 13.85% of the cases reviewed by federal auditors were in substantial conformity with state and federal laws and policies. Similarly, the CB found that only 17.85% of the cases reviewed showed that concerted efforts were made to address the risk and safety concerns relating to children in their own homes or while in foster care. Federal research shows that parents of these children experience multiple complex problems and encounter significant gaps in service availability to meet their needs.

Moreover, the CFSR results showed that only 8.11% of the cases reviewed demonstrated that concerted efforts were made to provide services to Louisiana families to prevent a child's entry into foster care or re-entry after reunification. In evaluating these CFSR findings, my Court Improvement Program administrators have identified one particular root cause for the state's low rating in the above performance areas; and, that is the failure to appoint attorneys for parents and children at the earliest time possible, including prior to the continued custody hearing. Early access to quality legal representation in these cases could have prevented the unnecessary need for removal of these children.

Federal statutes mandate judicial involvement and oversight in our state child welfare cases. The CB provides funding to states through the Court Improvement Program to promote continuous quality improvement for court proceedings in child welfare cases and to improve child welfare outcomes. It is to those ends that I speak to you today and ask your commitment to ensure the timely appointment of qualified legal counsel for children and parents in our state's child in need of care proceedings.

Louisiana Children's Code article 601, which indicates the purpose of our state Child In Need of Care proceedings, in pertinent part provides that: "[t]he proceedings shall be conducted expeditiously to avoid delays in achieving permanency for children." A further reading of our Children's Code requires that the court appoint independent counsel for the child at the time the order setting the first court hearing is signed, and that the parents of a child shall be entitled to qualified independent counsel at the continued custody hearing and at all stages of the proceedings thereafter. *See* La. Child. Code Ann. arts. 607 and 608 (2021). Therefore, a complete reading of our state law in alignment with the applicable federal statutes requires our dependency court judges to appoint legal counsel for children and parents in a timely manner.

As your Chief Justice, I ask that you consider appointing legal counsel for children and parents as early as possible in the Child In Need of Care proceedings. The Children's Code specifically provides that appointment for the child should be made at the time of setting the first court hearing, so this appointment can be made simultaneously with your signing of the Instanter Custody Order or Safety Plan Order. And, while the Children's Code does not provide the same immediate appointment of counsel for the parents, the Code does require proper notification of the right of counsel for the parent at the first court hearing. So, efforts should be made on your part to ensure the parent has a meaningful opportunity to be represented at the first hearing in accordance with the law.

To achieve timely appointment of legal counsel, you should review your process of appointing attorneys. You should evaluate whether there are opportunities to improve the appointment of legal counsel in a manner that allows the attorneys sufficient time to meet and prepare for the first and all hearings. Additionally, you should evaluate whether there is a need for your clerk or court staff to expedite the delivery of hearing notices with the accompanying pleadings to all legal counsel. The use of technology can be a compliment to the traditional service processes within your jurisdiction.

I am confident with these adjustments in the Child In Need of Care proceedings we can continue to ensure that children are being protected from abuse, neglect and exploitation in their homes. And, at the same time our court system can provide this protection as promptly as possible to ensure our child welfare system is achieving timely permanency for our Louisiana children.

I know that you are working hard to prioritize these cases involving our most vulnerable children.

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I commend you for that, and I again thank you all for your continued service to our state and to your communities.

Sincerely,

A handwritten signature in blue ink that reads "John L. Weimer". The signature is written in a cursive style with a long, sweeping underline.

Chief Justice John L. Weimer