



# Commission on Improving the Status of Children in Indiana

## Recommendation to the Commission

**Party Submitting Recommendation:** Indiana Public Defender Council

**Date of Submission:** 2/12/2019

**Type of Action Requested:**

Legislation     Policy     Resolution of Support or Endorsement     Public Promotion

Other: \_\_\_\_\_

**Which of the Commission's Strategic Priorities does this Recommendation help advance:**

Child Safety and services     Juvenile Justice and Cross-system Youth  
 Mental Health and Substance Abuse     Educational Outcomes

**Summary of Recommendation:**

The Commission on Improving the Status of Children supports the Indiana Task Force on Public Defense's (Task Force) recommendation that a pilot program to increase the involvement of specialty-trained lawyers and social workers/system navigators be developed in select counties to determine if improved outcomes for children and families occur in Children in Need of Services (CHINS) and Termination of Parental Rights (TPR) cases. CHINS and TPR cases are a specialty practice area and combining specialty-trained lawyers with system navigators for the families may help improve outcomes in these cases.

**Background of Recommendation:**

The Sixth Amendment Center, a national organization funded in large part by the DOJ and Koch Industries, evaluated Indiana's public defense model and released a critical report in 2016. In response, the Task Force was created by the Public Defender Commission which completed its report and recommendations in 2018. According to the Task Force Report, CHINS and TPR are a specialty area of public defense that has been part of public defense reform efforts around the country but not so in Indiana. The Department of Child Services evaluation performed by the Child Welfare Policy and Practice Group (CWG) recognized that social workers have been part of successful public defense models in other jurisdictions but they are not generally a part of Indiana's model in CHINS and TPR cases.

**What is the need or problem?**

In 2017, the Indiana Department of Child Services (DCS) had children in out-of-home care at rates more than double the national average. The Public Defender Commission requires attorneys have a modicum of training to handle a CHINS case and training and experience to handle a TPR case, however, only counties that voluntarily participate in the Commission's reimbursement program are required to abide by these standards (or monitored in any way). This

training does not include social work level training or DCS case worker level training leaving many attorneys unable to know the details of the services in which their client is being asked, and ultimately ordered, to participate. Attorneys also frequently do not have time to attend every (or even any) Child Family Team Meetings (CFTM) where the case trajectory is discussed. Specifically, the CWG report acknowledged that public defenders in CHINS and TPR cases have “heavy workloads” and struggle “to provide the level of service that they believe their clients deserve.” A system navigator and/or attorney, working for the parent and not paid for by DCS, at the CFTM can not only provide the parent with a trusted individual to rely upon at these important meetings but also can engage in important discussions about treatment options that even an attorney likely could not. Only one county in Indiana consistently staffs CHINS and TPR cases with a social worker but even then there is no particular basis for the amount of cases to which their social workers can be assigned.

The families in CHINS and TPR cases are typically financially eligible for a public defender and tend to be less sophisticated with the juvenile court process. The families are also frequently concerned about participating in DCS-paid and DCS-mandated services early on in a case because this is the same entity that just removed their children from the home. The inherent lack of trust can be overcome with knowledgeable legal and social work support, thus resulting in better, quicker outcomes due to earlier and more consistent involvement in the best services for each family member.

#### **What is the current response to the problem by the State of Indiana?**

The Commission sets maximum caseloads for attorneys handling these cases in counties that choose to abide by Commission standards in exchange for partial reimbursement of public defense expenses. Further, the Commission allows an increased caseload if an attorney is adequately staffed, of which a social worker is one possible staff option. Yet, there is no consistent effort in place across the state to provide social workers/system navigators specifically to CHINS/TPR attorneys outside of Marion County. The State of Indiana has not in any other way, provided to counties a way to support their public defenders, and the families they represent, with social workers/system navigators.

#### **What is the recommender proposing, and how will it help solve the problem?**

The Commission has concurred with the recommendations of the Task Force to create a division within the Commission to launch a pilot project providing specialty-trained lawyers with specialty-trained social workers/system navigators. These individuals would, at a minimum: 1) encourage early and full participation in services, 2) inform the court of the best services available to the family both prior to disposition and after, 3) be present for the parents at CFTMs so that a parent is routinely represented at all critical stages of the CHINS and TPR process – including those outside of Court, 4) be an independent witness vs. a DCS-paid witness as the outcome of services when a parent and provider are in disagreement.

#### **What data, research or other information did the recommender consult to formulate this proposal?**

The CWG Report, DCS published statistics, the Sixth Amendment Center Report and the Task Force Report were all considered and evaluated in this proposal. Further, the Commission has spoken with individuals from the states of Washington, Colorado, and California as well as the American Bar Association. Colorado, specifically, has done a similar pilot project within one county (with a control group and a group that provides the individuals described) and has seen children returned home more quickly combined with total better outcomes. This study is ongoing. The desire is to see if a pilot such as this can replicate similarly improved outcomes on Indiana’s population.

**If a legislative request, cite the current relevant code and specify what change is being recommended.**

n/a

**If a policy request, cite the current relevant policy and specify what change is being recommended.**

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n/a

**If the recommendation involves an endorsement or public promotion of a specific initiative or statement, attach the document of which you are seeking the Commission's support/endorsement/promotion.**

The Full Task Force Report can be found at:

<https://www.in.gov/publicdefender/files/Indiana%20Task%20Force%20Report.pdf> but pages 43-45 contain the background and recommendations discussed.