Bipartisan Senate Bill Calls for Bold Child Welfare Reform, Enhanced Accountability, and Measures to Prevent Maltreatment Fatalities

by Amy C. Harfeld
National Policy Director at the Children’s Advocacy Institute

On October 16, 2017, Senators Orrin Hatch (R-UT) and Ron Wyden (D-OR) introduced S. 1964, the Child Welfare Oversight and Accountability Act. Among other things, the bill is aimed at improving oversight and accountability of state child welfare programs, strengthening national data and improving multidisciplinary collaboration on child maltreatment fatalities, and facilitating kinship placements of children.

Upon introduction, Senate Finance Committee Chairman Hatch stated, “The lack of oversight of the nation’s child welfare system, at both the state and federal level, is unacceptable.” Hatch’s Democratic co-chair, Senator Wyden, expounded in the Committee’s press release, “It is outrageous and heartbreaking that so many vulnerable children experience neglect and abuse within our foster care system. The ultimate indictment of this system is that even the government can’t even confirm the gaps that caring advocates tell us are getting worse. What’s even more outrageous is that efforts to fix flaws in the system have been held up by stonewalling in the United States Senate.

To end this unacceptable treatment of children I intend to doggedly pursue the report’s recommendations. Chairman Hatch and I are committed to making this issue a priority for the committee and will work to bring America’s foster care systems up to the standards our children deserve.”

The bill was released in tandem with the Senate Finance Committee’s exhaustive investigation and (PDF) report on serious performance and safety shortcomings within privatized foster care facilities, originally exposed by a BuzzFeed exposé. Here is a link to the Committee’s executive summary of the 600+ page report which includes recommendations to states, Tribes, DHHS, and Congress. A number of the bill’s provisions are also consistent with some of the 2016 findings and recommendations (PDF) of the federal bipartisan Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), as well as with pressure exerted by stakeholders working to advance that Commission’s work.

The bill includes a number of important and innovative provisions including:

• Enhancing federal oversight of state child welfare systems by withholding funds for states that fail to fulfill their obligations through the Child and Family Services Review’s Program Improvement Plan processes. The bill calls for funds withheld to be reinvested in the state’s child welfare system in areas of deficiency and requires

The lack of oversight of the nation’s child welfare system, at both the state and federal level, is unacceptable. ▪ Senator Orrin Hatch (R-UT)
states to lay out their own dollars if they fail to comply with corrective plans.

- Strengthening accountability of state child welfare systems by providing for a private right of action for current or former foster youth to seek relief in federal court if a state fails to meet the case plan and case review requirements under federal law in their case.

- Requiring each state to create thoughtful guidelines for maximum caseload limits for caseworkers, to develop clear caseworker-to-supervisor ratios and to expand the types of caseworker training eligible for federal support.

- Strengthening and expanding national data on child fatalities from maltreatment by requiring every state to conduct comprehensive multidisciplinary annual reviews of all child maltreatment fatalities and develop recommendations based on the findings geared towards preventing future deaths—all of which would be published online annually by DHHS.

- Creating standardized definitions of maltreatment fatality-related terms in order to ensure states provide consistent and comparable longitudinal data.

- Promoting family placements by de-linking eligibility for kinship guardianship assistance from traditional but arcane funding formulas, shortening the time period the child is required to reside in the home, and facilitating the licensing process to streamline kinship placements.

- Requiring states to assess and report on the performance outcomes of all public and private foster care providers in their state including measures such as child fatalities, maltreatment rates in care, and average number of placements.

The Committee report’s recommendations to Congress go beyond the bill’s provisions in one other important regard by proposing that state fatality reporting under the Child Abuse Prevention and Treatment Act (CAPTA) to the National Child Abuse and Neglect Data System (NCANDS) be made mandatory rather than permissive.

Any opposition to this bill would likely stem from states and others concerned about additional burdens and liabilities posed by the bill. While some of the bill’s costs would be covered through the foster care entitlement, others would require further investment, or in the case of state child welfare malfeasance, need to be absorbed by the state.

At this time, this bipartisan bill appears to have little chance of advancing during the remainder of this Congress. In spite of this, however, this bill serves to shine a light on critical problems and solutions in child welfare and marks decisive corroboration of many of the issues advocates in the child welfare community as well as the CECANF have worked to address. Stakeholders wishing to support the advancement of S. 1964 can do so by expressing their support for it to their members of Congress, thanking the co-sponsors for their leadership on these issues, sharing news of the bill’s introduction and provisions in their traditional and social media networks, advocating for the bill’s advancement in Congress either on its own or via other legislative vehicles, and pushing for parallel reforms in their state or county.
PRESIDENT’S MESSAGE

Greetings and Happy Thanksgiving to You and Yours

This year seems to have blown by, but that could be just me and the rhythm of aging. As I close my two-year term as president of the NACC board, I say with all sincerity to you, the NACC, from top to bottom, side to side, and at its depth is a wonderful, strong organization. You make me proud.

Under the leadership of our new executive director, Kim Dvorchak (on the job now six months), the NACC is functioning well. As a result of a member survey, Kim and her staff team are working to be more responsive to membership needs, including resources and tools to enhance your effective advocacy. Keep talking with us.

Most every nonprofit board president is tasked with asking for financial support. I’m no different, but I would like you to show the staff and my fellow board members that my alleged charm can be disarming and cause people to cough up their dough. Please consider digging deep this year by adding the NACC to the charitable organizations you support.

Your gift will help us continue to serve as a valuable resource for child welfare attorneys nationwide. Giving today is simple and easy. You can donate directly on our website.

Your generous support will help ensure that the NACC continues to be a resource in the child welfare legal community. Our training, programs, and technical assistance would not be possible without the contributions of advocates and allies – just like you. Every contribution is needed (no matter its size) and will immediately be put to good use. We know that you support many worthwhile organizations doing good work, and we ask that you add the NACC to the top of that list.

As a country, we’re navigating through some divisive times. Please take a moment to remember what you are thankful for this holiday season. We hope you each have the opportunity to spend some time with the people you love and we thank you for your consideration.

Thanks,

H.D. Kirkpatrick, PhD, ABPP
President, NACC Board of Directors
Submit Your Abstract Proposals Now for Our 2018 Conference in San Antonio!

NACC IS ACCEPTING ABSTRACT PROPOSALS NOW THROUGH FEBRUARY 15, 2018

We truly appreciate your interest in presenting at the 41st National Child Welfare, Juvenile Justice, and Family Law Conference, to be held August 23–25, 2018, at the San Antonio Marriott Rivercenter.

Nationally, children and youth who encounter the child welfare, juvenile justice, or family court systems face numerous challenges. New challenges on the horizon range from harsher immigration enforcement, to increasing numbers of children in the foster care system due to the opioid epidemic, as well as trending state legislation that discriminates against potential foster families and children by allowing faith-based placement agencies to employ their own religious ideals when determining if a family is acceptable or if a particular health service is made accessible. As in the past, NACC will use its annual conference to educate attorneys on how to advocate on behalf of children and families to celebrate and highlight family strengths, and to guard against potential harm from policies, practices, and legislation that seek to curtail or infringe on the rights of children and families.

Our goal is that conference sessions will expand attendees’ understanding of child law and provide them with tools to help them advocate for the children, youth, and families they serve. NACC is particularly interested in sessions that attend to adult learning theory and employ strategies that include multiple learning styles. Additionally, we seek to empower practitioners and help them build their advocacy toolkit by providing practical “how-to” sessions. Our attendees typically include dependency and delinquency attorneys who represent children, parents, and agencies; family law attorneys; judges; social workers; and other advocates across multiple disciplines, including education.

This year, NACC seeks abstract proposals to support three conference tracks: Child Welfare, Juvenile Justice, and Family Law. Conference proposals should address any of the following: Substantive law, general advocacy, trial skills, policy, ethics, and/ or appellate issues. Based on previous conference evaluations and membership surveys, topic areas of interest include: Issues of disproportionality, such as LGBTQ, racial minorities, American Indian/Alaska Native children, and children with specific physical and behavioral health needs; advocacy for older youth; implementation of federal law; trends in juvenile justice; strategies for achieving timely permanency; placement/facility conditions; dual-system-involved youth; and creating system change through policy advocacy. NACC is also seeking proposals on family law topics such as custody and visitation issues, parenting time, and mediation.

All proposals should seek to infuse diverse populations within the topic to be discussed, and all accepted abstracts must include a resource tool, such as a checklist, motion, brief, or article for their session prior to the conference.

If your abstract is accepted, all presenters in your session will receive a free registration for the full conference. Additionally, all presenters will be recognized in NACC conference materials.

Visit our Conference page for more details and to submit your abstract.

We look forward to hearing your ideas!

Remember to SAVE THE DATE

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41ST NATIONAL CHILD WELFARE, JUVENILE & FAMILY LAW CONFERENCE

EARLY REGISTRATION IS NOW OPEN!

Register now and save $100!

NACC’s 41st national conference will be held **August 23–25, 2018** at San Antonio Marriott Rivercenter. Additionally, a full day pre-conference Red Book Training will be held on **August 22, 2018**. The full conference brochure will be available in April 2018.

We are looking forward to yet another engaging and dynamic conference!
Children’s Legal Rights Journal Call for Papers

Volume 38, Issue 3 • Children and the Law

Children’s Legal Rights Journal is pleased to announce a special edition of the CLRJ to commemorate the 40th Anniversary of the National Association of Counsel for Children, a nonprofit children’s legal advocacy organization founded in 1977 to improve the lives of children and families through high-quality legal representation and policy advocacy. This special edition will be released in the summer of 2018 with a symposium to follow in the fall. We invite you to submit articles that address the prominent issues impacting children’s justice over the last 40 years.

Submission Details: We invite you to submit articles that address children and the law. We will be reviewing and accepting articles on a rolling basis until February 16, 2018. Submissions should be previously unpublished pieces based on original work. All submissions should be between 15 and 60 pages (double-spaced) and formatted according to the Bluebook.

Contact Information: All submissions and questions can be sent directly to CHILDLRJ@LUC.EDU. Please do not hesitate to contact us with any questions. You can also contact CLRJ via mail or telephone:
Emma McMullen, Managing Editor
Children’s Legal Rights Journal
25 E. Pearson, 11th Floor
Chicago, IL 60611
847-287-7922

About the CLRJ: The Children’s Legal Rights Journal is a national journal sponsored by Loyola University Chicago School of Law in cooperation with the National Association of Counsel for Children. We publish articles on a variety of children’s legal issues and we are the only journal in the country addressing legal needs of children. Visit our website to check out past issues.

Policy Update

NACC filed an amicus brief in the United States District Court for the Western District of Michigan on October 6, 2017, in the case of Johnson, et al. v. Lyon. The issue in the case involves the ability of the Michigan Department of Health and Human Services to regulate the storage of firearms in foster homes. NACC supported the Michigan DHHS restrictions.

NACC is also working on an amicus brief in New York on a case involving the issue of ICPC application to parents. NACC is supporting the child’s claim that the application of the ICPC to a non-respondent parent violates the plain language of the statute and contravenes the constitutional rights of both the child and the non-respondent parent.

NACC is also gearing up to begin the next phase of work in collaboration with the Annie E. Casey Foundation involving its “Every Kid Needs a Family” initiative. Stay tuned for updates on this initiative and invitations from NACC to collaborate with us in this important work.

If you are interested in collaborating with NACC on a policy initiative, or if you would like NACC to support your local efforts, please reach out to Brooke Silverthorn, Director of Legal and Policy Advocacy at Brooke.Silverthorn@NACCchildlaw.org. NACC is interested in a range of issues related to child welfare and juvenile justice. To learn more about NACC’s policy priorities, check out NACC’s policy agenda.
Youth Voices Matter

by Kim Dvorchak, JD, NACC Executive Director

Nothing About Us, Without Us. That’s the motto of AMP, a youth-driven organization called Achieving Maximum Potential based in Iowa that “seeks to unleash the full potential for personal growth among foster and adoptive children.”

Strong Able Youth Speaking Out. That’s the name of SaySo in North Carolina, which engages youth who experienced substitute care in policy development and advocacy.

Youth Power! in New York is a network of “young people who have been labeled and are seeking change.”

NMCAN supports young people in New Mexico who have experienced foster care, the juvenile justice system, and/or homelessness.

Last month, I had the opportunity to attend the Foster Youth in Action Leaders for Change Conference Showcase in Washington, DC. Foster Youth in Action is a nonprofit organization supporting youth advisory boards and youth-led nonprofits that are exercising their voices to create change. The Leaders for Change Conference brought together youth from across the country to learn advocacy skills, to share their stories with Congress, and to network with each other about the policy initiatives they lead at home.

I was honored to sit among these young leaders and listen to their presentations about policy priorities and organizing success. This years’ theme was Stand Tall, Together We’re Stronger. The groups presented through skits, spoken word, PowerPoint, and song. The energy in the room was palpable—the acknowledgement of shared experiences, the empowerment they received from each other, and the amazing reports of policy advocacy success. Foster Youth in Action believes in the power of youth voice and that organizing is transformative — for the youth, their communities, and — I add — for us as practitioners. Check it out on Twitter at #L4C2017, and on Facebook/FosterYouthAction.

Priority issues focused on normalcy. A normal childhood. A normal life. For children and youth in the foster care system, access to everyday experiences can require legislation. Legislation to keep brothers and sisters together, legislation to get a driver’s license, legislation to go to prom. “To be normal means to have access to things that adolescents who aren’t in the system do such as sleepovers, dates, and even a chance to earn an allowance” read one group’s brochure. Day-to-day experiences my own teens take for granted. It was a powerful reminder for the adult ally organizations present — we may have our views on what matters to the children and youth we serve, but if we don’t really tune into what matters to them, we can’t help them truly access the justice and opportunities they seek. Some of the groups’ materials offered advice to professionals, including: Get to know us one-on-one, outside the courtroom; Make plans with us, not for us; Be honest with us; Ask and listen – don’t see me as a file, know me! Amidst our busy lives, daily routines, and patterns of practice, it’s critical we all take a pause to listen, to really listen, and then act accordingly.

NACC is dedicated to providing children’s law advocates with the tools necessary to empower their clients through effective representation. NACC’s Policy Agenda advocates for the rights of youth in the foster care and juvenile justice systems, and our by-laws include a Youth Advisory Board, but we can do better to listen and incorporate the voice of youth experts. NACC is revitalizing the Megan Louise Furth Youth Empowerment Fund to support youth engagement in our attorney training and policy advocacy, and we look forward to highlighting more youth voices at our 41st Annual Conference. If you would like to support NACC’s efforts to engage more meaningfully with youth you can do so by donating to the NACC Megan Louise Furth Youth Empowerment Fund on #GivingTuesday November 28 and #ColoradoGivesDay December 5. Thank you!
NACC’s 40th Anniversary Celebration!

NACC is offering all Bronze, Silver, and Gold members the opportunity to renew or extend your membership for one year at a 40% discount. Whether your membership expires this month or next year, we will add 12 months of membership when you renew during our 40 for 40 Celebration!

This is also a great time for members to elevate their membership level to Silver or Gold and receive the 3rd edition of *NACC’s Child Welfare Law and Practice* (aka The Red Book), published just last year—an incredible value at $120 with a Silver membership or $180 with a Gold membership during this 40% off special.

Renew/extend/upgrade your membership now!

Use code NACC40 during online checkout or download the PDF form and return via mail!

NACC Marketing Materials

Are you using the NACC marketing materials available to you? We have marketing materials to help you promote your involvement with the NACC. By publicizing your membership with NACC, you show your support for our organization and highlight your personal commitment to improving the lives of children and families.

- **Membership Banners** can be added to your email signature or website in just a few moments. You’ll find a small and a large image for each of our four membership levels.

- **Membership Certificates** can also be downloaded, saved, and printed as proof of good standing with the NACC. Consider framing or hanging your certificate in the office.

To access Membership Banners and Certificates, log in to your account and visit the Member Marketing page.
Membership Matters, continued

Thank You to Our Platinum Lifetime, Gold, and Silver Members!

Thank you for your continued membership, involvement, and support in 2017 — we are very grateful. As we move into 2018 and begin another remarkable year of strengthening legal advocacy for children and families, we’re so glad you’ll be right there with us!

Thank You to Our Platinum Lifetime, Gold, and Silver Members!

Donna Furth
Donald Bross
Leonard Edwards
Leonard Edwards
Irma Carrera
Amanda Donnelly
Charles Masner
Kathleen McCaffrey
Henry Plum
Janet Sherwood
Yve Solbrekken
John Stuemky
Smith Williams
Elizabeth Armstrong
Meredith Baker
James Cargill
John Ciccoleta
Rachel Elvitz
Bryan Fagan
Robert Fellmeth
Josh Gupta-Kagan
H.D. Kirkpatrick
Greta Locklear
Leslie Odom
Angela Orkin
Erik Pitchal
Deborah Reese
Bobby Rodrigo
Sonia Velazquez
Judy Waksberg
Jill Abrahamson
Kathryn Banks
Prudence Beidler Carr
Randall Carmel
Robert Clark
Lisa Colbert
Carol Dane
Richard Ducote
Kathleen Dummitrescu
John Elliott
Alicia Fortson
Annalee Foster
Karen Freedman
Debra Fuller
Damon Gannett
Charles Golbert
Francesca
Hamilton-Acker
Meredith Hamsher
Cecilia Hellrung
Lorne Hobbs
Brady Howell
Nicole Hull
Kamau Hull
Karen Hunt
Karen Jackson
Paula Kaldis
Deborah Liverence
Tracy Maguire
Robert Melton
Shannon Mese
Susan Mulligan
Betsy Musselman
Otha Nelson
Ana Novoa
James Ottesen
DeVonna Ponthieu
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Singer-Frankes
Amanda Speichert
Mallory Stoll
Joshua Welch
Colleen Wengler
Phillip Wiseman
Christopher Wu

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Practice Area Scholarships

We are closing out this year’s scholarships with three opportunities in November. NACC is pleased to see diversity of attorney roles in our CWLS program. In order to keep it diverse, a full certification scholarship will be awarded to new CWLS applicants in each area and partial scholarships to runners-up. Represent both parents and children? You are welcome to apply for both scholarships. The application deadline is November 30th and winners will be selected in December. Good luck, everyone!

Please select one of the links below to complete a scholarship application:

Agency Attorney
Parents’ Counsel
Children’s Attorney / Attorney GAL

Testing Deadlines

Current applicants that would like to take their exams this year must send your request to ExamSoft by Friday, December 1st. The final day for testing will be Friday, December 15th.

A New CWLS Benefit: The Electronic Red Book

Achieving and maintaining your CWLS certification requires dedication and demonstrated excellence in the field of child welfare law. NACC recognizes this commitment and wants to support you in your practice. As a new benefit and resource, all CWLS now have access to the electronic version of the 3rd edition Child Welfare Law and Practice (the Red Book). Questions about online access? Contact certification@NACCchildlaw.org.

Quick-File is Here

Specialists rejoice! We have created an annual report Quick-File which allows those without disciplinary or legal matters to disclose to submit your report in just a few clicks. We’re also working on a Quick-File recertification for 2018! If you still need to submit your annual report and fee for 2017 or your recertification paperwork, please do so as soon as possible.

Congratulations to these new CWLS!

Eunice Beattie, JD, CWLS
Legal Aid Center of Southern Nevada
Las Vegas NV

SOUTH CAROLINA’S FIRST CWLS!
Christopher Church, JD, CWLS
Children’s Law Center — University of South Carolina School of Law
Columbia SC

Amy Honodel, JD, CWLS
Legal Aid Center of Southern Nevada
Las Vegas NV

Gretchen Johns, JD, CWLS
Utah Office of the Guardian ad Litem
Provo UT

Jill McConaughy, JD, CWLS
Riverside Law Office
Glenwood Springs CO

Karen Wang, JD, CWLS
Attorney at Law
Austin TX
2017 Board of Directors Election
Open until November 30

Under the NACC’s by-laws, members of the Board of Directors are elected and re-elected by the membership. For this election, there are three new candidates for consideration (one returning to the board) and three up for re-election. NACC members must be logged in to vote.

Currey Cook, JD

Relevant Background / Bio: I began my law career as a guardian ad litem and juvenile defense attorney in Anchorage, Alaska in 1994. I have represented children continuously since then working for government agencies and local and national nonprofit doing both direct representation and systemic reform work. My experience has included nearly all aspects of the representation of children in juvenile court, including minor guardianship, domestic violence and custody cases.

Why the NACC Board? My law school did not have a child advocacy clinic and ended up representing children as my first job out of law school by happenstance. My very first NACC conference was a revelation to me. Seeing so many attorneys committed to the rights of children was humbling and inspiring. Since then, I have been fortunate to be both a participant and presenter at the NACC conference. Every time, I leave recommitted and reminded of how I can do more and better. I have also seen how hetero- and cisnormativity play out even in progressive circles. And how as attorneys for children we must do more to address racial disparities in our system and ensure the civil rights of our clients, including discrimination they face around sex, race, ethnicity and religion as well as sexual orientation and gender identity. Affirmation of identity and connection with affirming community are cornerstones of well-being and normalcy and would like to work with other members of NACC and the board to help us do an even better job ensuring that our clients are safe and treated equitable while in care.

Skills / Representation: The various roles I have played — trial attorney, consultant, professor, policy advocate — have allowed me to develop varied skills that will, hopefully, inform my role as a board member. In particular, I hope to bring a voice to LGBTQ youth in care and, by virtue of representing children in rural Alaska and New York City and now working across the country, a perspective that is informed by the realities of practice across the country.

Term Goal: I would like to continue to elevate the role of practice by attorneys for children across the country so they are all truly zealous advocates for individual LGBTQ clients and are also equipped to play a role in systemic reform.

Amy Harfeld, JD

Relevant Background / Bio: Amy serves as the National Policy Director and Senior Staff Attorney for the Children’s Advocacy Institute (CAI), based at the non-profit University of San Diego School of Law. In addition to representing CAI before federal policymakers in Washington, D.C., Harfeld advances CAI’s national policy agenda independently as well as within the National Child Abuse Coalition, The National Foster Care Coalition and other advocacy collectives. She has been an advocate, educator, and public interest attorney for over 20 years. Inspired into advocacy during three years of teaching 7th grade in Los Angeles during the early years of Teach For America, she has dedicated her career to advocating on behalf of vulnerable children. After obtaining her BA from the University of Michigan and her JD from the City University of New York Law School, she went on to litigate child abuse and neglect cases for New York City’s Administration for Children’s Services, founded a legal services program for incarcerated New York parents at the Fortune Society, and served as the Executive Director of First Star, a child welfare advocacy organization in Washington D.C. She has directed the American Bar Association’s Commission on Youth at Risk, led the Children’s
Leadership Council, provided strategic assistance to SparkAction and Every Child Matters and done pro-bono government affairs work for the National Association of Council for Children. She also serves as the coordinator for the National Coalition to End Child Abuse Deaths.

Why the NACC Board? Amy has been engaged in NACC for over a decade, and served as NACC’s pro-bono government affairs advocate for 5 years. She is deeply committed to the organization’s mission and members and has a vision for its future.

Skills / Representation: Amy brings a uniquely diverse perspective to the Board. She has represented the State, children, and parents in dependency and other family court cases and has also engaged deeply in policy and legislative advocacy at the local, state, and federal levels.

Term Goal: Amy’s goal is to strengthen NACC’s impact and footprint in the children’s, civil rights, and human needs communities, and help to activate the power and potential of its diverse and widespread membership.

Sonia Velazquez

Relevant Background / Bio: Sonia Velazquez is a Senior Strategic Leader and Global Advocate who has advanced child wellbeing globally with a focus on results and impact. Her career includes 22 years at senior leadership level in top tiers of non-profit organizations.

From 2012 to 2017 as Executive Director of a Foundation based in Switzerland she advanced an end to child labor, modern slavery, and exploitation through project implementation, national policy influence, and global advocacy. Previously, as Senior Vice President at the American Humane Association and Family Support America for over 14 years, she advanced policy, practice, and research, advocated on behalf of children and families in the USA and abroad, and was project director / principal investigator for large State and Federal Government and private foundation projects.

Her academic publications have focused largely on immigrant children, child rights, and absent fathers; through the more recent speaking engagements and social media she has advanced the End of Child labor and Contemporary Slavery, Decent Work, the Global Sustainable Development Goals (SDGs), Gender, and Business and Human Rights.

Sonia holds a Graduate Degree on Business and Administration from Harvard University, a Bachelor’s Degree from Universidad de los Andes in her native Colombia, and other relevant academic certifications including Economics, Global health, Conflict analysis, Resilience in children impacted by trauma and war, Contemporary slavery, among others.

Why return to the NACC Board? I am looking forward to returning to the NACC Board to support the growth and development of a valued and respected organization that champions the wellbeing of children from a unique perspective, educating and influencing hundreds of legal professionals and providing the resources they need.

As a child welfare advocate and a global child advocate I have been committed to improving policies and legal systems that protect children and to proposing approaches that improve child-serving systems around the world.

Skills / Representation: I would like to focus my efforts to represent child rights and child welfare aims. Over the past years I have dedicated enormous efforts to advancing child rights and human rights and to engaging a variety of governments, public and private sector stakeholders and others in a sustainable development agenda that adds to the global SDG movement and works towards the world targets for 2030. Previously, I focused my efforts on advancing a US child welfare agenda and areas of policy, training, research and evidence building.

Term Goal: I have acquired a new set of experience and resources on child rights and human rights that can provide important insights to the NACC Board on the causes of child and human rights violations. Also, I hope to share information on the opportunities that exist to tap into resources and knowledge and advance the aims of the organization.

Re-election

Leslie Heimov, JD, CWLS

Relevant Background / Bio: Leslie Starr Heimov, Executive Director, has been with the Children’s Law Center of California (CLC) since 1992. She began her career at CLC as a staff attorney, providing direct representation to parents and children in the dependency system, and later moved to a supervising attorney position. From 2004-2007 Ms. Heimov served as CLC’s Policy Director, responsible for CLC’s legislative and policy agenda, including drafting legislation and working closely with elected officials, their
staff, and other advocates to support important legislative reforms in the child welfare arena.

Ms. Heimov is a member of The California Judicial Council Family and Juvenile Law Committee, The Los Angeles County Education Coordinating Council, the California Child Welfare Council and is the co-chair, of the Commercial Sexual Exploitation of Children Action Team. She sits on the R.I.S.E. High Leadership Council, the Board of Regents of the DaVinci Schools and is a founding member of the Family Justice Initiative. She has served on the Board of Directors of the National Association of Counsel for Children since 2006 and is currently the serving as the Vice President of the NACC Board.

Ms. Heimov previously served on the California Supreme Court Chief Justice’s Commission on the Futures of California’s Court, the Human Exploitation and Trafficking (H.E.A.T.) Blue Ribbon Panel, the National Advisory Board of the Children’s Law Office Project and was a founding member and co-chair of the Los Angeles County Pregnant and Parenting Teens Workgroup and a founding member of the Task Force to End Homophobia in Foster Care.

Ms. Heimov has worked tirelessly to improve outcomes for children in foster care and to promote best practices in the representation of children and their families in the child welfare system. She is considered an expert in the child welfare field. She has served a trial skills instructor for the National Institute of Trial Advocacy and the Juvenile Law Society, and regularly presents to judicial officers, attorneys, social workers, caregivers and law students on a multitude of topics related to the representation of abused and neglected children.

During her tenure as Executive Director, CLC expanded its programs to include representation of children in Sacramento and Placer counties as well as in Los Angeles and CLC recognized a 49% per attorney caseload reduction. In 2009 CLC received the American Bar Association’s Hodson Award for Public Service. Ms. Heimov was honored by SEIU Local 721 as a 2012 “Champion for Children” and by the California Legislature as a 2012 “Woman of Distinction.” In 2013 she was awarded a Durfee Sabbatical. Ms. Heimov is also a member of the R.I.S.E. High Team, which in September of 2016 was one of 10 high schools nationwide selected by Lorene Powell Jobs and the Emerson foundation to be an XQ Superschool.

**John Stuemky, MD**

Dr. John H. Stuemky is an Associate Professor of Pediatrics, University of Oklahoma, College of Medicine, and past Chief of the Section of General Pediatrics and Pediatric Emergency Medicine. He founded and has directed the Child Protection Team at The Children’s Hospital in the diagnosis and care of abused and neglected children since 1975. Approximately 600 cases of abuse and neglect are managed by the Child Protection Team each year. He has testified in many cases of abuse and neglect, in both federal and state courts and has served on the Oklahoma Child Death Review Board since its inception in 1992.

He is active and has served on many regional and statewide task forces and committees relating to child abuse and neglect. He has been one of the two co-directors of the statewide Child Abuse Medical Examiner Program that started in 1990 until his retirement in 2015. Effective October 1, 2011, Dr. Stuemky is the Chief Child Abuse Examiner for the state of Oklahoma. Dr. Stuemky will be consulting with other disciplines (judges, district attorneys, DHS workers) on complex child abuse and neglect cases, he will also be training medical professionals on medical identification/issues related to child abuse and neglect. He will be presenting to the Legislature on behalf of children who are abused and neglected. Basically, he is the expert physician in the state on child abuse and neglect.

As former Medical Director of the Emergency Department at The Children’s Hospital and principal investigator of the Emergency Medical Services for Children (EMS-C) Program for the state of Oklahoma, he has been instrumental in developing the death scene investigation for child deaths incorporated into the State EMT Training Program. Dr. Stuemky has been a board member of the National Association of Counsel for Children (NACC) since 1996 and has been a member of the NACC since 1979.

Dr. Stuemky is among physicians who recently became the nation’s first board-certified child abuse pediatrics specialists. A new endowment was announced in honor of John Stuemky, MD. The CMRI John H. Stuemky, MD Endowed Professorship in Pediatric Emergency Medicine was established by Frontier State Bank to honor Dr. Stuemky.

**Hon. Erik Pichal**

**Relevant Background / Bio**

**Judicial Offices**

Judge, Family Court of the City of New York,
Appointed by Mayor Bill de Blasio, 2015 to 2017
Judge, Family Court of the City of New York, Bronx County, Designated by Chief Administrative Judge A. Gail Prudenti, 2013 to 2014
Judge, Civil Court of the City of New York, Appointed by Mayor Michael Bloomberg, 2013 to 2013; Re-appointed by Mayor Bill de Blasio, 2014 to 2014

Other Professional Experience
Independent Child Welfare Consultant and Solo Practitioner, 2011 to 2013
Suffolk University Law School (Boston), Assistant Clinical Professor of Law and Founder and Director of the Suffolk University Child Advocacy Clinic, 2007 to 2011
Fordham University, Director Fordham University Interdisciplinary Center for Family and Child Advocacy and Adjunct Associate Professor of Law, 2005 to 2007
Children’s Rights, Staff Attorney, 2002 to 2005
Legal Aid Society, Staff Attorney, Juvenile Rights Division, 1999 to 2002
Law Clerk to Hon. Robert P. Patterson, Jr., US District Court for the Southern District of New York, 1998 to 1999

Admission to the Bar
NYS, Appellate Division, Second Department, 1999
Massachusetts, 1999
First Circuit, 2009
S.D.N.Y., 1999
Federal District Court for the District of Massachusetts, 2008

Education
J.D., Yale Law School, 1998
B.A., Brown University, 1994

Publications
Evaluation of the Wyoming Guardian ad Litem Program, 2012
The Swedish Approach to Children and the, Law 33 The Guardian 24, 2010
Evaluation of the Guardian ad Litem System in Nebraska, project director and lead author, 2009
Thickening the Safety Net: Key Elements to Successful Independent Living Programs for Young Adults Aging Out of Foster Care, 23 St. John’s J. Legal Comment. 447 (2008)

Buzz in the Brain and Humility in the Heart: Doing It all, Without Doing Too Much, on Behalf of Children, 6 Nev. L.J. 1350 (2006)

Professional & Civic Activities
Commonwealth of Massachusetts Board of Registration of Social Workers, Public Member (appointed by Gov. Deval Patrick), 2009 to 2012
Massachusetts Task Force on Youth Aging Out of Foster Care, 2007 to 2012
Kings County Small Claims Court, Volunteer Arbitrator, 2004 to 2010
Board Member, New York City Family Court Judges Association
Board Member, Chair - InformationTechnology Committee, New York State Family Court Judges Association
Board Member, National Association of Counsel for Children
Case Summary


Preface

NACC is committed to the position that children have a categorical due process right to a client-directed attorney at every stage of a dependency and TPR proceeding. The right to counsel for children, parents, and agencies, is one of NACC’s signature policy advocacy agenda aims. As such, NACC, along with other national partners, submitted an amicus brief in support of S.K-P's position that children in dependency proceedings have a categorical due process right to counsel under the 14th Amendment to the U.S. Constitution as well as the Washington State Constitution. The Washington Court of Appeals declined to find that children have a categorical due process right to counsel in dependency court proceedings. A summary of that decision follows.

Background

S.K-P, a seven-year-old child, was placed in foster care and pursuant to Washington law, requested legal representation.1 Pierce County intervened for the purpose of opposing the request for appointment of counsel based on financial concerns. The juvenile court applied the Mathews test to determine whether to appoint counsel for S.K-P and denied her request.

The Washington Court of Appeals granted review on two issues: Whether the Washington State Constitution mandates the appointment of counsel for all children in dependency cases and, if children do not have a categorical right to counsel in dependency proceedings, whether the juvenile court should apply the Mathews test in evaluating a child’s request for counsel in dependency proceedings.

The court first looked at the process involved in dependency proceedings generally, paying attention to the hearings that are conducted and requirements of the juvenile court at each. The court then turned to an examination of the historical right to counsel in dependency and termination proceedings. In its examination, the court recognized that under current Washington law, children do not have a categorical due process right to counsel in either dependency or termination proceedings.2 However, it noted that both statute and court rules provide for judicial discretion in appointing counsel for a child in a dependency proceeding.3

Further, in 2010, the Washington legislature enacted law requiring that children 12 years and older who are subject to a dependency proceeding be informed of their right to request counsel.4 They must be informed of that right on a yearly basis. If a child’s parent’s rights have been terminated for six months and the child remains in the legal custody of the Washington State Department of Social and Health Services, the juvenile court must appoint counsel for the child.5

Finally, the court looked to a 2012 case in which the Washington Supreme Court recognized that children in termination proceedings have vital liberty interests at stake, but ultimately held that whether a child is constitutionally entitled to court-appointed representation must be decided on the facts and circumstances in the individual case.6

The court also examined the law regarding a parent’s right to counsel in dependency and TPR proceedings in Washington, noting that the state has “long recognized parents’ fundamental liberty interests in the right to parent their children, which compels a constitutional due process right to court-appointed counsel for all parents in dependency and termination proceedings.”7

The court also noted that the following year, the Washington Supreme Court extended parents’ right to court-appointed counsel in dependency proceedings.

Summary by Brooke Silverthorn, JD, CWLS
Director of Legal and Policy Advocacy, National Association of Counsel for Children

2. Id
3. RCW 13.34.100(7); Ju CR 9.2(c)(1).
4. RCW 13.34.100(7).
5. RCW 13.34.100(6).
proceedings on the same grounds.\(^8\) As a result of those two Washington Supreme Court cases, the Washington legislature codified parents’ right to counsel in both dependency and termination of parental rights court proceedings.\(^9\)

After examining the historical context of both children’s and parents’ right to counsel in dependency and termination proceedings, the court moved to its analysis on the issue presented. The court applied a six part Gunwall\(^10\) analysis to determine the extent of protection the state constitution provides and whether it should be analyzed independently from the 14th Amendment.\(^11\) The court ultimately decided that an independent state analysis was appropriate.\(^12\)

The court then turned to the question of whether the Washington Constitution under Article I, Section 3, compels the appointment of counsel to children in dependency proceedings. SK-P argued that because children have more liberty at stake in dependency proceedings than parents, it logically follows that children must also have a constitutional right to court-appointed counsel.\(^13\) However, the court emphasized that not only are children’s interests notably different, they are also insulated by “significant procedural safeguards.”\(^14\) Specifically, the court focused on the State’s obligation to “advocate for the child’s best interests” and ensure “safety and best interests of the child are paramount considerations…”\(^15\) The court also noted the GAL’s role, albeit limited, in representing and advocating for the best interests of the child.\(^16\)

The court also stressed that the legislature has recognized the benefits of legal representation for some children and has provided a process for a child to receive court-appointed counsel.\(^17\) Given the procedural safeguards and the fact that children “are not in an adversarial position to the State,” the court declined to find that the Washington Constitution provides a categorical right to counsel for children in dependency proceedings.

Lastly, SK-P argued that the 14th Amendment to the United States Constitution compels court-appointed counsel for children in dependency proceedings. Alternatively, SK-P argued that under a Mathews\(^18\) analysis, court-appointed counsel is required under the 14th Amendment. The court noted that children in dependency cases, unlike children in delinquency proceedings, do not face the possibility of being confined “in an institution such as a juvenile detention center or a mental health facility.”\(^19\) Therefore, although the court agreed that there may be individual cases in which the risk to a child’s physical liberty interest rises to the level of requiring court-appointed counsel, it did not rise to the level of requiring court-appointed counsel in every dependency case. Accordingly, the court held that “a case by case application of the Mathews factors sufficiently protects children’s due process rights.”\(^20\)

**Update**

Columbia Legal Services decided to appeal this case and has filed a Petition for Review with the Washington Supreme Court. If the Washington Supreme Court accepts review, NACC will participate in an amicus brief in support of the merits, arguing that children’s fundamental physical liberty is impacted in dependency proceedings and that fundamental liberty interest can only be protected when all children in dependency proceedings have legal counsel. Stay tuned for updates on this important case.

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8. Id.
9. RCW 13.34.090
12. Id.
13. Id.
14. Id.
15. Id.
17. Id. in Re: the Dependency of S.K-P, NO. 48299-1-II, (Wash. Ct. App., decided Aug. 8, 2017); RCW 34.100(7).
20. Id.
National Association of Counsel for Children

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NACC Mission
As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families

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