



Texas Foster Children Need Your Help

BY PATRICIA M. HOGUE & KRISTY SIMS PIAZZA

Approximately 40,000 Texas children are placed in the legal care of the state each year. Approximately 14,000 of those children will grow up in the permanent managing conservatorship (PMC) of the state, living in foster care until they are adopted or they age out of the system. They will continue to have an open case in court, Child Protective Services (CPS) will continue to monitor their circumstances, and a judge will examine their living arrangements every six months, but many will not be provided an attorney to represent them.

What Foster Children Face

Many foster parents provide caring, safe homes, and they access all of the services that should be made available to foster

children. In some instances, however, foster children are not cared for as they should be or get lost in the shuffle. Some may suffer neglect, abuse, or other types of trauma and instability during the remainder of their childhood. Many aren't taken to therapy as needed or don't receive new clothes or other necessities from money provided by CPS because their foster parents do not spend the funds on them. Foster children who struggle behaviorally and emotionally are often overly medicated to make them more manageable. They can lose interest or struggle in school because they move so frequently. They may have to repeat grades because they have moved so often the paperwork isn't available to substantiate their grades. Still others age out of the system without obtaining a driver's license and other skills necessary for a productive, healthy life.

Foster Children's Legal Cases

There are two phases of a case for an abused or neglected child who has been removed from his or her home. The first phase determines whether the child can be returned home, and, if so, what conditions must exist to ensure the child's safety. In this initial phase, Texas law provides that all of these children have an attorney appointed to monitor their circumstances and protect their rights as well as a guardian ad litem to look out for their best interests. If the child's home cannot be made safe, and there are no appropriate relatives to take the child, the second phase of the child's case begins, and the child is placed in the PMC of the state. In this phase, the Texas Family Code mandates that a judge review the child's living arrangements every six months — and no longer requires that the child have an attorney or even a lay advocate appointed. The courts are not always provided with the resources necessary to appoint attorneys in every case. While CPS is still involved and focuses on protection, CPS is extremely limited in its resources as well. Caseworkers change frequently due to high turnover, and they face excessively high caseloads. If a child appears to be in a safe placement, other issues he or she may face do not necessarily reach the caseworker. Without an attorney involved, all the information the court should have when reviewing the child's placement and needs may not be available to the judge.

The Need for Volunteer Attorneys For Children in Foster Care

Despite a lack of funds to pay for court-appointed attorneys, children in foster care still need attorneys to be actively involved in their cases and to help make sure their needs are being met. Attorneys are needed to evaluate a child's circumstances, recognize the legal issues associated with the child's case, and know which issues to bring to the court's attention and what evidence is needed to get action and services through the courts.

If children in foster care had volunteer attorneys to stay in frequent contact and to monitor their well-being, these children would have a constant advocate in their lives. The volunteer attorney plays an important role by visiting regularly, listening to the child, and observing the child's living circumstances. Through this contact, the attorney and child develop a trusting relationship. Additionally, the attorney is better able to evaluate the legal issues as they arise and work toward remedies that are in the child's best interest. The attorney must talk with the child's teachers, therapist, and foster parents and conduct other significant inquiries that will allow them to take steps necessary to make sure things are on track.

How You Can Help

To help address this ongoing need for attorneys for children in foster care, the Texas Young Lawyers Association (TYLA), Texas Lawyers for Children (TLC), and the State Bar Committee on Child Abuse and Neglect have teamed up to recruit and train Texas lawyers to serve as attorneys ad litem and as co-coun-

sel for abused and neglected children. The decision to join efforts in this cause was simple, considering how vital it is that these children have committed and well-trained attorneys in their corner.

Attorneys interested in volunteering to help abused children can do so in several ways. Volunteer attorneys are often needed at both phases in the case of a child who has been removed from home. In the first phase, where the court will determine whether the child can return home, attorneys with experience in various fields of law — from probate attorneys to immigration attorneys to appellate attorneys — are needed to handle a specific issue that may arise. Volunteer attorneys can also help in other ways, such as mentoring those with less trial experience and being available as a resource to other attorneys via phone or email.

Volunteer attorneys are also needed in the second, or PMC phase, which deals with a child's well-being while growing up in foster care. For children who do not have court-appointed attorneys, volunteer attorneys are needed to stay actively involved with each child, work to protect the child's well-being, and to help ensure that the child is safe and that all of his or her needs are met while in foster care. Additionally, an attorney who is court-appointed to represent a child in PMC often finds that the child is suddenly placed in a facility or foster home several



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How One Judge's Sleepless Nights Launched A National Volunteer Advocacy Movement

BY ANDREA SPARKS

Seattle Judge David Soukup couldn't sleep. He had heard a variety of important cases over the years, but the child protective services (CPS) cases on his docket were keeping him up at night. In these cases, he had to make life-changing decisions without what he felt was sufficient information. His concern eventually launched one of the largest and most effective volunteer organizations in the country.

In 1977, Judge Soukup appointed the first volunteer Court Appointed Special Advocates (CASA). Thirty-three years later, there are more than 70,000 CASA volunteers nationwide and more than 6,000 in Texas.

CASA volunteers are trained and supervised by local CASA programs and, in most Texas jurisdictions, appointed as guardians ad litem in CPS cases.¹ They represent the best interests of the child, reporting on and advocating for the child's well-being while helping to find a safe, permanent home for the child as soon as possible. Because they are generally appointed to only one child or set of siblings at a time, CASA volunteers can give children the consistent, individualized attention they need to successfully get through the foster care system.

According to a 2009 Judicial Survey, Texas judges may be sleeping better at night thanks to Judge Soukup's idea. Of those judges that responded, 97 percent reported that the information CASA provides is beneficial to their decision-making and 94 percent said that CASA provided an opportunity for better child outcomes.² Unfortunately, even after 33 years of tremendous growth and better outcomes, there are still far too many children without a CASA volunteer. To find out how you can help, go to www.becomeacasa.org. (You'll sleep better at night, too.)

Notes

1. Tex. Fam. Code Chapter 107.
2. Survey available at www.texascasa.org.



Andrea Sparks is director of public policy and outreach at Texas CASA and has served as an attorney ad litem for children and parents in numerous CPS cases.

counties away or even across the state. It would greatly benefit a child who is moved far from his or her court-appointed attorney if the attorney could be paired with a volunteer attorney living near the child. Serving as co-counsel — by volunteering to visit a foster child regularly and reporting that child's circumstances back to the court-appointed attorney — could make a positive impact on the child's life by ensuring that he or she is safe and is receiving all appropriate services.

Resources and Training

Volunteer attorneys who participate in the joint effort will have everything they need to be successful and will not be expected to take on cases alone. Also, members of TYLA who participate in the PMC program will receive State Bar malpractice insurance coverage. In addition, all volunteers will have free access to the Texas Lawyers for Children Online Legal Resource and Communication Center (www.TexasLawyersforChildren.org), which provides a wealth of child abuse information in relevant areas of law, as well as medical and psychological articles (*see p. 744*).

Free CLE training is available for volunteers through TYLA, TLC, and the State Bar. A training video on how to represent a child in PMC is available on the TYLA website (www.tyla.org). The video addresses a variety of issues, including how-tos on interacting with a child client and making sure that his or her living arrangements are safe, what kind of services are available to children in the foster care system, and information on the child protection system.

TexasBarCLE offers an online course, "Representing Texas Children in Abuse and Neglect Cases," which will be made available at no charge to all volunteers in the PMC program. Starting in November, a one-hour session on the legal needs of Texas foster children and pro bono opportunities to help them will be available to interested law firms and bar associations.

TYLA and TLC representatives are available to speak with judges interested in discussing the needs of specific jurisdictions and developing recruitment efforts in a particular area.

To register as a volunteer, visit www.TexasLawyersforChildren.org and click on the "Pro Bono" tab. For more information about any of the above programs, please contact Kristy Sims Piazza at kristy@koonfuller.com or Patricia Hogue at patricia.hogue@texaslawyersforchildren.com.



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