



Supreme Court of Appeals State of West Virginia

News

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Steven D. Canterbury, Administrative Director

West Virginia gets “A” in national report For immediate release Tuesday, October 20, 2009

CHARLESTON, W.Va. – West Virginia received one of the top grades in a national review of the way states appoint attorneys to represent the interests of children in abuse and neglect juvenile court proceedings.

The peer-reviewed study, "A Child's Right to Counsel: A National Report Card on Legal Representation for Abused and Neglected Children," was conducted by First Star and the Children's Advocacy Institute at the University of San Diego School of Law. West Virginia also received an “A” grade the first time states were ranked in 2007.

West Virginia Supreme Court Justice Robin Jean Davis said, “West Virginia has made effective representation of children in child abuse and neglect cases a priority. Through the Court Improvement Program, the Court offers free multidisciplinary training each year to attorneys, social workers, and others. The child abuse and neglect benchbook is available to the public on the Court’s and Court Improvement Program Web sites. While receiving a high mark in this area is quite a compliment, we are driven by improving the lives of the children and families who come to court under dire circumstances.”

Chief Justice Brent D. Benjamin said, “This recognition comes as welcome news and confirms West Virginia’s position as a national leader in protecting children. This grade reflects the hard work of many individuals who work daily with little or no recognition.

“Ensuring a safe, secure, and permanent home for every West Virginia child is our goal – and it begins with having a trained counsel to represent the rights and interests of children in abuse and neglect proceedings,” Chief Justice Benjamin said. “We won’t stop here, though. We will continue to do those things necessary to improve this system for our children.”

Nicholas County Circuit Judge Gary L. Johnson, Chairman of the Court Improvement Program, said, “West Virginia has always been at the forefront of representing children in abuse and neglect. We have we always provided attorneys, and we have always required those attorneys to be appropriately trained to represent children in those cases. We are happy to be recognized for the work of the lawyers of this state.”

Supreme Court Administrative Director Steve Canterbury said, “The Court’s attention to child abuse and neglect has been second to none. This is good news that our hard work is being recognized nationally and being graded appropriately.”

This year the report, released October 15, gave only two states a grade of “A+.” Connecticut and Massachusetts. West Virginia was one of nine states to earn an “A.” Eleven states earned a “B,” fourteen states earned a “C,” eight states earned a “D,” and seven states earned an “F.”

The full report is available online at http://www.caichildlaw.org/Misc/Final_RTC_2nd_Edition_lr.pdf

According to the report, the criteria and West Virginia grades were as follows:

Does state law mandate that attorneys be appointed for children in dependency proceedings? (Points: 40 out of 40)

When an attorney is appointed for a child in dependency proceedings, does state law define the duration of the appointment? (Points: 5 out of 10)

Basis for deduction: West Virginia law expressly requires the appointment of counsel for children during all proceedings under article 6 of Chapter 49 of the West Virginia Code (W. Va. Code Ann. § 49-6-2(a)), but does not expressly require appointed counsel to represent children on appeal.

When an attorney is appointed for a child in dependency proceedings, does state law require the attorney to advocate for the expressed wishes of the child in a client-directed manner? (Points: 20 out of 20)

To what extent are specialized education and/or training requirements for the child’s counsel required by state law? Is such education and/or training required to include multidisciplinary elements? (Points: 8 out of 10)

Basis for deduction: Although requiring attorneys to receive training on the representation of children, child abuse and neglect, West Virginia law does not expressly require that this training be multidisciplinary in scope.

Does state law expressly give the child the legal status of a party with all rights appurtenant thereto? If not, does state law expressly give the child some of the rights of a party? (Points: 10 out of 10)

Do the Rules of Professional Conduct (or the state’s equivalent thereto) pertaining to liability and confidentiality apply to attorneys representing children in dependency proceedings? (Points: 10 out of 10)

Extra Credit: Does state law address caseload standards for children’s counsel in dependency proceedings? (Points: 0 extra credit points)

West Virginia law does not address caseload standards for attorneys representing children in dependency proceedings.