

# URGENT NEED FOR DEPENDENCY COUNSEL AUGMENTATION

Updated 4/27/2021

## Summary

Despite recent state investments to reduce historically high dependency counsel caseloads, a dramatic surge in the foster care population, unexpected pandemic-related costs and advocacy needs, and a shortfall in anticipated federal funding run the risk of diminishing these gains. Emergency funding in the 2021-22 state budget is critical to protect families during a time of multiple and intersecting crises.

## Background

Children and parents involved with the foster care system need effective and high-quality legal representation. Over the past several years, the Governor and Legislature have been responsive to funding requests to move closer to the amount needed for a maximum average caseload of 141 clients per attorney – a standard established by the Judicial Council of California (JCC) after careful study.

In each of the past two years, the state budget appropriated **\$157 million** General Fund for dependency counsel. In addition, the budget anticipated a drawdown of newly available federal dollars through the Federally Funded Dependency Representation Program (FFDRP). According to the Governor's January 2021-22 budget, the FFDRP drawdown is projected as **\$49 million in 2019-20 and \$57 million anticipated ongoing**.

## Problem: A Year of Unprecedented Challenges and Continued Shortfalls

While the state has seemingly moved closer to closing the funding gap, the reality for dependency counsel and the families they serve is very different. Due to the pandemic, the progress made over the past several years to reduce caseloads is quickly being eroded. Recent events have placed tremendous strain on the child welfare system.

Overall increase across the state **↑7%** **↑14%** Increase in Los Angeles alone

Importantly, client numbers in the child welfare system have drastically increased during the pandemic, especially in larger counties like Los Angeles. Not only has this thwarted caseload reduction, it also will result in a substantial reduction in funding for counties in which there was no decrease or even a small increase in clients, as the fixed dollar appropriation will be reallocated to cover the population spike in Los Angeles County.

In addition, attorney groups have faced significant unanticipated costs to address the challenges of COVID. While other branches of the courts closed down or dramatically reduced operations, the efforts required of dependency counsel to serve their clients only increased.

For example, to facilitate client participation in remote hearings, the costs of interpreter services increased by 500% for one non-profit firm, while another spent nearly \$300,000 on overtime and contract employees due to COVID-related staffing needs. A children's firm incurred \$100,000 in technology and PPE expenditures to ensure its staff could continue to assess the safety and other needs of their young clients. While the courts received \$75 million in COVID relief, thus far dependency counsel groups have not received any supplemental state funding to offset these mounting costs.

Further, as many children in families deeply affected by the pandemic and related physical and mental illness, isolation, unemployment, housing, and food insecurity are currently cut off from help, the reopening of our schools may sadly be accompanied by an increase in hotline calls and a resulting surge of new dependency cases.

Finally, the funding crisis is exacerbated by a significant shortfall in the federal drawdown due to unexpected limitations on reimbursable costs. In the 2019-20 budget year, FFDRP matching funds came to just \$26 million – far short of the \$49 million projection. As a result, the total dependency counsel budget ended up nearly 15% below the budgeted amount. This shortfall will produce a domino effect on current and future federal funding levels, as each year's match is based on the combined state and federal funding for the prior year. The projected 2020-21 and 2021-22 matches cannot be realized without an increase in State funding.

## Short-Term Relief to Enable Long-Term Solutions

While longer-term planning must continue to prioritize caseload reduction and maximum drawdown of federal matching funds, this investment is needed to ensure that dependency counsel can continue to provide critical services to children and families during this unprecedented crisis and recover from the emergency:

**(1) One-time appropriation of \$10 million for COVID expenses and the temporary increase in caseloads; and**

**(2) General Fund augmentation of up to \$30 million<sup>1</sup> to correct for any shortfall in federal funding such that the total is no less than \$213,709 million – the amount anticipated in the Governor's January Budget.**

**Contact: Steve Coony 916-552-2300 or Elizabeth Espinosa 916-272-0012**

<sup>1</sup> The Judicial Council and Department of Social Services are finalizing rules around claiming for 2020-21 following recent guidance from the Federal

Children's Bureau. Accordingly, dependency attorneys have not been able to finalize invoices for the current year. The exact amount of the shortfall cannot be determined until invoices can be submitted and approved.

