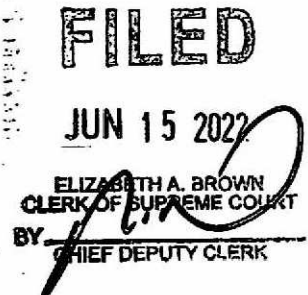


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LEGAL AID CENTER
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June 14, 2022

Via Email: nvscclerk@nvcourts.nv.gov

Elizabeth A. Brown
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701



Re: Support for ADKT 0598

Dear Ms. Brown,

The Children's Attorneys Project of Legal Aid Center of Southern Nevada express its full support of the proposed Rules of Conduct for Lawyers Representing Children in Child Welfare Cases ("Rules of Conduct") proposed by ADKT 0598. The Rules of Conduct will provide defined and concrete standards for lawyers representing one of the most vulnerable segments of Nevada's population.

There are roughly 5,000 children involved in the child welfare system in Nevada, with the vast majority living apart from their parents. Many of these children are in strange, new places, interacting with strange adults in unfamiliar roles. This upheaval starts with a call to a government agency. The agency then intervenes, ultimately making changes to the family structure, some of which may be long lasting or permanent. Because that agency intervention implicates both the constitutional rights of parents and children, our Nevada Courts are substantially involved in the child welfare system, presiding over abuse and neglect cases pursuant to Chapter 432B of the Nevada Revised Statutes.

Child welfare law arises out of a complex interplay between state law and procedure, and federal policy and funding. Over time, it has been recognized as a national best practice that children be appointed independent legal counsel to protect their rights in the dependency action. In response, 25 years ago, the American Bar Association approved its Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases, based upon similar standards for lawyers in juvenile justice cases. The ABA's goal was to improve legal representation for children. The ABA revisited those standards in 2011, passing the Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings to give lawyers clear guidance on how to represent a child client.

In Nevada, Chapter 432B requires the court to appoint a lawyer for the child, and that lawyer cannot be the guardian ad litem.¹ Nevada law also provides party status to the child. Otherwise, NRS 432B provides little guidance how attorneys should represent a child client. The Nevada Rules of Professional Conduct list out the duties owed by a lawyer to every client, but “child representation is a unique function.”² To ensure that the 5,000 Nevada children in foster care have quality legal representation, it is imperative that Nevada lawyers have clear guidance on the duties owed to the child client. That clear guidance is found within the 2011 ABA Model Act³.

Because Nevada has already passed legislation giving children party status and the right to an attorney, the Children’s Attorneys Project at the Legal Aid Center of Southern Nevada drafted these Rules of Conduct to supplement the Nevada Rules of Professional Conduct to guide lawyers representing children. The draft Rules of Conduct do not adopt the 2011 ABA Model Act in total. Rather, the draft Rules provide guidance on what is not in the Nevada Revised Statutes: how attorneys should approach representation of a vulnerable client, in some of the worst circumstances, to make sure their voices are heard by other participants in the child welfare system and their legal rights are honored. The proposed rules are designed to improve quality of legal representation, without overburdening a system with limited sources.

Thus, we support the implementation of the Rules of Conduct, and urge you to grant the Petition in ADKT 0598. We are grateful for your continued support of Nevada’s foster youth.

Sincerely,



Amy Honodel, Esq., CWLS

Strategic Initiatives Manager, Children’s Attorneys Project

¹ Guardians ad litem, governed by NRS 432B.500, play a different role as they report to the court on the child’s best interest; most guardians ad litem in our state are provided by “CASA” programs.

¹Duquette, Don, “How to Improve Legal Representation of Children in America’s Child Welfare System”, February 8, 2022, p. 10.

¹ *Id.*, concluding that states should adopt the ABA 2011 Model act as the structure for representing a child in abuse/neglect proceedings.