

MEMORANDUM

TO: NEW JERSEY LAW REVISION COMMISSION

FROM: JOHN M. CANNEL

DATED: MAY 12, 2014

RE: CHILD ABUSE & NEGLECT – RESPONSES TO TENTATIVE REPORT

We have received three written submissions in response to the tentative report. They are included with this memo. I have revised the report and produced a draft final report that incorporates some of the suggested changes. That draft is also included.

Some issues remain open. This memo will attempt to present them.

1. Changes proposed by CASA:

Item 2. The current draft requires that before a court orders a child to remain in the custody of the Division, it must find that the petition is likely to be sustained. CASA would delete that requirement.

Item 4. CASA proposes including separate specific provisions on abandoned children that are part of the current law. The draft deletes those provisions because an abandoned child would be neglected or abused and “in need of services” as those terms are defined. If the separate category is to be added, the term, “abandoned” would need to be defined carefully. If a child is placed with a relative, has that child been abandoned?

Item 5. the following provision was deleted from 30-1:

The Division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

Termination of parental rights will not do more harm than good.

Those provisions were included in 30-2 which seemed the more appropriate place.

2. Changes proposed by Law Guardian

The Law Guardian program proposes making the definition of an “abused or neglected child” more inclusive. I have suggested some change in 27-1 in that direction. The draft does not follow the full Law Guardian proposal as that would make most accidental injuries child neglect or abuse. This issue is the hardest and most important in the draft. The original language without the indicated change was approved by the Commission with the Tentative Report. Its theory is that if a child needs intervention by the Division and the standards for abuse or neglect are not met, the Division can proceed with a petition alleging that the child is “in need of services”. Incorporating that concept into Title 9, allows a more restrictive definition of abuse and neglect.

The Law Guardian program proposes changing the name of its role from law guardian to attorney for the child. The change would avoid a lot of confusion over the position of Law

guardian attorneys. I see no problem with the change and all references are within the scope of this project but want the Commission's decision before all these changes are made.

3. Changes proposed by Legal Services

Legal Services proposes a requirement of "appropriate and frequent" visitation rather than "appropriate" visitation as the draft now has in 30-2(c)(5).

Legal Services also proposes deletion of 9:30-5 which limits adjournments of termination hearings. That provision may be impractical but deletion of all limits brings its own problems.