



Supported Resolution 3-2018

In Support of the Reauthorization of Child Abuse Prevention and Treatment Act

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators recognize the importance of preventing child abuse and neglect and of effectively treating and meeting the needs of victims of such abuse and neglect; and

WHEREAS, in 2010, Congress reauthorized the Child Abuse Prevention and Treatment Act (CAPTA), a grant program to assist states in improving child protective services; and

WHEREAS, under CAPTA grant funds are authorized for: (1) research and demonstration programs and projects; (2) programs and projects administered by state, Indian tribe, tribal organization, and public or private agencies and organizations; and (3) development and operations grants to the states; and

WHEREAS, these grant funds assist states to prevent child abuse and neglect and to treat victims more effectively; and

WHEREAS, CAPTA also includes a provision, "...requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings - I. to obtain first-hand, a clear understanding of the situation and needs of the child; and II. to make recommendations to the court concerning the best interests of the child"; and

WHEREAS, the guardian ad litem performs critically important functions that assist the court in making informed decisions about the best interests of the child with regard to the child's placement, services needed by the child and family members, and progress in securing a safe and permanent home for the child; and



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WHEREAS, as Congress is considering reauthorization of CAPTA, some organizations are promoting an amendment to CAPTA to either (1) add a new requirement that an attorney be appointed to provide legal representation for every child in a case involving a victim of child abuse or neglect which results in a judicial proceeding in addition to appointment of the guardian ad litem or (2) eliminate the existing guardian ad litem provision and replace it with a new requirement to appoint an attorney for every child to provide only legal representation for the child; and

WHEREAS, such amendments may prevent courts from obtaining valuable information with respect to the best interests of children in abuse and neglect cases, preempt state law related to legal representation (an issue usually committed to state law), and result in an unfunded mandate that would negatively impact state and local budgets;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support the reauthorization of the Child Abuse Prevention and Treatment Act and urge Congress to retain the existing guardian ad litem provision as is; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators urge the Congress during its consideration of CAPTA reauthorization legislation to (1) take reasonable steps to obtain meaningful and timely input from appropriate branches and agencies of state governments with respect to issues of federalism and separation of powers that may be implicated by the legislation and (2) include a federalism assessment of the proposed legislation in every pertinent committee and conference report.

Approved as proposed by the CCJ/COSCA Joint Committee on Courts, Children, and Families at the Conference of Chief Justices and Conference of State Court Administrators 2018 Annual Meeting on August 22, 2018.