



JUDICIAL COUNCIL OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Scope of Foreseeable Billable Activities for In-House Social Workers/Investigators

An attorney–social worker interdisciplinary model of legal representation focuses on the whole client. Social workers/investigators have a significant role in ensuring that the social, developmental, and emotional needs of their clients are factored into overall legal advocacy. In a 2019 New York study on the impact of the interdisciplinary model on parent representation, data showed that children spent 118 fewer days on average in foster care during the four years following the abuse or neglect case filing.¹ As an interdisciplinary team, the attorney and social worker can comprehensively address issues that impact the family unit with the objective of children returning home sooner or avoiding foster care placement altogether. The integration of the social worker into dependency legal representation enables the attorney to provide competent, independent, and zealous representation to children and families involved in child welfare and juvenile justice cases. The social worker is instrumental in assisting the attorney in fulfilling legal duties to the client and can impact child welfare outcomes, including contributing to decisions on a child’s removal and development of meaningful and individually tailored case planning.²

This interdisciplinary model of representation is consistent with standards recommended by the National Association of Counsel for Children and practice standards established by the American Bar Association.³

The work of the social worker on the case enables the attorney to most effectively present the client’s position to the court and better assess and serve the client’s needs. Social workers/investigators employed as agents of the attorney are bound by attorney-client privilege. As such, they are not mandated reporters and are excluded from the mandated reporting requirement under Penal Code section 11165.7.⁴

In 2017 the Administration for Children and Families issued guidance on High Quality Legal Representation for All Parties in Child Welfare Proceedings. That memo highlighted that

¹ Lucas A Gerber, Yuk C Pang, Timothy Ross, Martin Guggenheim, Peter J. Pecora and Joel Miller, *Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare*, Children and Youth Services Review, Vol. 102, pages 42-55.

² *Ibid*, at page 43.

³ American Bar Assoc., *ABA Adopts Model Act on Child Representation* (Sept. 1, 2011), www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol30/september2011/aba_adopts_modelactonchildrepresentation/.

⁴ Penal Code section 11165.7(a)(18) states that a mandated reporter can be defined as “[a] district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor” (emphasis added).

numerous reports and studies have provided evidence to support that legal representation for children, parents and youth contributes to or is associated with:

- Increases in party perceptions of fairness;
- Increases in party engagement in case planning, services and court hearings;
- More personally tailored and specific case plans and services;
- Increases in visitation and parenting time;
- Expedited permanency; and
- Cost savings to state government due to reductions of time children and youth spend in care.⁵

The interdisciplinary model of representation affords counsel for parents and children the opportunity to achieve the outcomes noted above and more during the course of a dependency case. The chart below lists foreseeable billable and non-billable activities of a social worker/investigator employed by an attorney firm representing minors and parents.⁶ The activities are categorized by role, as follows: case preparation, advocacy, and administration. This chart is not intended to be an exhaustive list of activities. These are the types of activities that create the increases in outcomes highlighted in the previous paragraph.

	Activity	Parent	Child
CASE PREPARATION			
1.	Assist and advise attorney in case strategy and management.	✓	✓
2.	Assist attorney in conducting further investigation deemed “reasonably necessary to ascertain the facts” (Welf. & Inst. Code, § 317).	✓	✓
3.	Prepare written reports for the client file and assist the attorney in formulating recommendations for the court. These reports are considered attorney work product and contain investigative findings of the social worker/investigator, comprehensive assessments of the child’s or parent’s legal needs, and recommendations as to the various legal stages of a case, including jurisdiction, disposition, reunification, and termination of parental rights.	✓	✓
4.	Conduct client interviews (from the legal perspective) to ascertain the facts and understand the client’s position.	✓	✓
5.	Meet with/contact the client (telephonically, electronically, and in person).	✓	✓
6.	Identify potential law and expert witnesses. This could include consultation with experts and assessment of witnesses needed for trial, including medical professionals, collaterals who may hold relevant information, relatives, and county social workers.	✓	✓

⁵ Administration for Children and Families, *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, Log. No:ACYF-CB-IM-17-02, January 17, 2017, page 39-55, at 40.

⁶ A check mark indicates that the activity is allowable. No check mark means that it is not billable.

	Activity	Parent	Child
7.	Interview witnesses; assist attorneys in preparing witnesses for trial.	✓	✓
8.	Obtain discovery (confidential medical or educational psychotherapy records and social histories, etc.), including waivers or authorizations to release client records.	✓	✓
9.	Prepare service of legal process, including restraining orders, subpoenas, and subpoenas duces tecum.	✓	✓
10.	Assist the client with preparation of restraining orders.	✓	✓
11.	Assist the attorney in preparing the client for trial or other child welfare hearings related to the specific case, including explaining the nature, purposes and processes of the hearings and helping the client understand what to expect.	✓	✓
12.	Prepare or arrange for appearances or claims/responses in other legal matters, i.e., civil, criminal, immigration, health insurance access.		
13.	Assist the client in understanding what his or her responsibilities are in the dependency process.	✓	✓
14.	Provide in-court testimony.	✓	✓
15.	Provide secondary opinion on psychosocial and risk assessments included in county social worker report (from child and parent perspective). Work collaboratively with the attorney to prepare disposition and placement recommendations based on independent observation and assessment of the child, which may or may not be consistent with the county social worker recommendations.		
16.	Assist the attorney in submitting court filings.	✓	✓
17.	Notarize documents (if in possession of the requisite notary certification).	✓	✓
18.	For very young (under age 6), preverbal, or developmentally delayed children and youth for which a standard interviewing procedure is impracticable: <ul style="list-style-type: none"> • Conduct observations of the child or youth; • Interview caregivers and relatives; • Obtain medical histories (interviews with the treating physician, psychotherapists, occupational therapists, etc.) This information is important to the attorneys' legal representation of the client when substituted judgement is required because the client is unable to participate or assist the attorney in developing case strategy or expressing a position or stated interest.		✓
19.	In Welfare and Institutions Code section 241.1 crossover matters: <ul style="list-style-type: none"> • Extensively review the minor's entire social history and dependency file; 		✓

	Activity	Parent	Child
	<ul style="list-style-type: none"> • Work with dependency and delinquency attorneys to develop a legal strategy for the case; • Prepare in-depth written analyses and recommendations regarding the court system that would best serve the youth. 		
20.	Assist the attorney in reviewing a form JV-220 application and seeking the necessary input from the client regarding a position on the medication request. For children, this work would also include contacting the caregivers about the child's behavior at home and school. For children and parents' representation, this work would include speaking to the treating psychiatrist if there is a concern or question about the recommended medication.	✓	✓
ADVOCACY			
21.	Attend mediations to advocate for the client's interests.	✓	✓
22.	Ensure that the voice and position of the child and parent are heard and considered at school meetings by attending critical school administrative hearings (e.g., IEP, expulsion hearings).	✓	✓
23.	Working with the attorneys and education rights holder (parent or surrogate) to protect the educational rights and advocacy needs of the minor client. This would include attending and advocating on behalf of the attorney at IEP, 504 plan meetings, and manifestation hearings. If the case requires limiting of the parent's educational rights and appointment of an education surrogate, the social worker would assist the attorney in identifying a responsible individual to appoint is needed. The social worker is a resource to the child and parent.	✓	✓
24.	Provide information and consultation for attorneys on appropriate client communication, including information on how to conduct interviews considering and reflecting the age and cognitive development of the client.		
25.	Provide information and consultation to the attorney on issues of child development that should be considered in formulating recommendations to the court.		
26.	Conduct staff trainings on issues affecting legal representation.		
27.	Represent the attorney at collaborative court meetings (e.g., Katie A, girls court, family drug court, wellness court).	✓	✓
28.	Attend, as needed, collaborative court hearings that could affect the client's dependency case, such as criminal drug court hearings for parents or criminal hearings that require the child-client to be a witness.	✓	✓
29.	Perform for the client short-term case management that furthers the attorney's advocacy role (e.g., assisting in maintaining compliance with AB 12 requirements or assisting the client with managing a housing crisis, which could affect		

	Activity	Parent	Child
	the attorney's ability to advocate for reunification of the family).		
30.	Participate in advocating for the client's needs at Child and Family Team meetings or any other team meetings, as appropriate.	✓	✓
31.	Identify immigration issues and assist the client with navigating the legal process as it relates to residency status (i.e., assisting the attorney with Special Immigrant Juvenile Status paperwork for the minor client and making referrals to immigration legal services for parents).		✓
32.	Conduct secondary educational screenings with the client and caregivers to assist the attorney in ensuring that the attorney is advocating for appropriate educational services and school placements.		
33.	Engage in cross-collaborative work, on behalf of the attorney, with other agencies to improve behavioral and placement outcomes for the child and minor parent client.	✓	✓
34.	Assist the attorney in the presumptive transfer process, including but not limited to seeking input on presumptive transfer decisions at Child and Family Team meetings and assessing the client's mental health services and services available outside the county of original jurisdiction. For parents and children, this would include helping the client understand the request and seeking the party's position and input on the issue.	✓	✓
35.	Assist the client in case plan compliance to develop a support plan for the client and develop legal strategy for the case.	✓	
36.	Provide additional referrals to community services to supplement those provided by the county worker, when needed		
ADMINISTRATION			
37.	Manage case files (including maintaining an updated and accurate billing-time log of activities and other records reflecting work done on the case).	✓	✓
38.	Reimburse for mileage and other travel expenses (in state) that relate to client contacts, meetings, and court hearings.	✓	✓
39.	Perform conflict checks.	✓	✓
40.	Supervision of eligible social worker activities	✓	✓