

112TH CONGRESS
2D SESSION

H. R. 3873

To provide funds to State courts for the provision of legal representation
to parents and legal guardians with respect to child welfare cases.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2012

Ms. MOORE introduced the following bill; which was referred to the Committee
on Ways and Means

A BILL

To provide funds to State courts for the provision of legal
representation to parents and legal guardians with re-
spect to child welfare cases.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Enhancing the Quality
5 of Parental Legal Representation Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In the Strengthening Abuse and Neglect
9 Courts Act of 2000, the Congress found that “under
10 both Federal and State law, the courts play a crucial

1 and essential role in the Nation's child welfare sys-
2 tem and in ensuring safety, stability, and perma-
3 nence for abused and neglected children under the
4 supervision of that system”.

5 (2) Child outcomes are improved and courts
6 function more effectively when all parties have qual-
7 ity legal representation. Analysis of data from pro-
8 grams in New York and Michigan revealed that
9 more than 50 percent of children avoided unneces-
10 sary foster care placement when all parties received
11 high quality representation. According to the Amer-
12 ican Bar Association, a pilot program in the State
13 of Washington to improve representation for parents
14 resulted in “a 53.3 percent increase in the rate of
15 reunification”.

16 (3) In New York, children placed in foster care
17 whose parents receive high quality legal representa-
18 tion spent on average 4.5 months in placement com-
19 pared to a statewide average of 2½ years and re-
20 entry rates of 1 percent compared to 15 percent
21 statewide.

22 (4) According to the American Bar Association,
23 the cost per family for high quality legal services in
24 New York was approximately \$6,000 over the life of
25 a case as compared to anywhere from \$29,000 to

1 \$66,000 for 1 year of foster care for a child in New
2 York City in 2010.

3 (5) Training and standards of representation
4 are necessary to ensure qualified representation. Ac-
5 cording to the American Bar Association Center on
6 Children and the Law, parental representation is
7 “often substandard, resulting in the failure of due
8 process in these cases. As a result, numerous chil-
9 dren are needlessly separated from their parents for
10 extended periods of time and in many cases families
11 are permanently severed through termination of pa-
12 rental rights orders” and most states have no stand-
13 ard training requirements for attorneys representing
14 parents in their state.

15 **SEC. 3. AMENDMENTS TO THE COURT IMPROVEMENT PRO-**
16 **GRAM.**

17 (a) PROVISION OF LEGAL REPRESENTATION FOR
18 PARENTS AND LEGAL GUARDIANS WITH RESPECT TO
19 CHILD WELFARE CASES.—Section 438(a) of the Social
20 Security Act (42 U.S.C. 629h(a)) is amended—

21 (1) in paragraph (3), by striking “and” at the
22 end;

23 (2) in paragraph (4)(B), by striking the period
24 at the end and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(5) to provide legal representation for parents
2 and legal guardians with respect to proceedings de-
3 scribed in paragraph (1).”.

4 (b) APPLICATION.—Section 438(b) of such Act (42
5 U.S.C. 629h(b)) is amended—

6 (1) in paragraph (1)—

7 (A) by striking “and” at the end of sub-
8 paragraph (B);

9 (B) by striking the period at the end of
10 subparagraph (C) and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(D) in the case of a grant for any pur-
13 pose described in subsection (a)(5)—

14 “(i) a description of how the grant
15 will be used to provide legal representation
16 to parents and legal guardians;

17 “(ii) a description of how the court
18 will prioritize the provision of legal rep-
19 resentation, including how and when attor-
20 neys will be assigned to represent a parent
21 or legal guardian; and

22 “(iii) a description of how courts and
23 child welfare agencies on the local and
24 State levels will collaborate and jointly
25 plan for the collection and sharing of all

1 relevant data and information to dem-
2 onstrate how increased quality representa-
3 tion of parents and legal guardians with
4 respect to child welfare cases will improve
5 child and family outcomes.”; and

6 (2) in paragraph (2)—

7 (A) in subparagraph (C), by striking “or”;

8 (B) in subparagraph (D), by striking “and
9 (C)” and inserting “(C), and (D)”; and

10 (C) by redesignating subparagraph (D) as
11 subparagraph (E); and

12 (D) by inserting after subparagraph (C)
13 the following:

14 “(D) the purpose described in subsection
15 (a)(5); or”.

16 (c) AMOUNT OF GRANT.—Section 438(c)(1) is
17 amended by striking “and (C)” and inserting “(C), and
18 (D)”.

19 (d) ALLOCATION OF FUNDS.—Section 438(c)(3)(A)
20 of such Act (42 U.S.C. 629h(c)(3)(A)) is amended—

21 (1) by striking “and” at the end of clause (iii);

22 (2) by redesignating clause (iv) as clause (v);

23 and

24 (3) by inserting after clause (iii) the following:

1 “(iv) \$10,000,000 for grants for the
2 purpose described in subsection (a)(5);
3 and”.

4 (e) FUNDING.—Section 436 of such Act (42 U.S.C.
5 629g) is amended—

6 (1) in subsection (a), by striking
7 “\$345,000,000” and inserting “\$355,000,000”; and
8 (2) in subsection (b)(2), by striking
9 “\$30,000,000” and inserting “\$40,000,000”.

○