



STRENGTHENING THE VOICES
OF CASA STATEWIDE

HB 3895 & SB 2049: IMPROVING SUPPORT FOR YOUTH IN DUAL STATUS CASES: CLARIFYING THE ROLE OF GUARDIANS AD LITEM

BACKGROUND

Youth in foster care become involved with the juvenile justice system much more often than their peers, and once they do, they are at an even higher risk of negative outcomes. These youth—commonly referred to as dual status youth—require a unique approach.¹

Children and youth who experience abuse or neglect are at a 47% greater risk of being involved with the juvenile justice system, compared to the general population.² Although prevalence is hard to quantify and dependent on the definition used for the population, it is estimated that anywhere between 45-75% of first-time juvenile petitions (offenses involving minors) involve youth with foster care involvement. And when we look closer, girls and African-American youth are disproportionately represented among youth involved in both systems.³

Ninety-two percent of youth involved in both systems *first* experience foster care, and *then* become juvenile justice involved.⁴ Additionally, youth in foster care who enter the juvenile justice system have worse outcomes than their non-foster-care peers. Dual status involvement is associated with higher risks for mental health, education and vocation challenges, as well as higher rates of recidivism, longer stays in detention, placement instability and poor permanency outcomes.⁵

TEXAS SUPREME COURT OF TEXAS CHILDREN'S COMMISSION DUAL STATUS TASKFORCE

In response to a Texas Judicial Council recommendation, the Children's Commission created the Dual Status Taskforce (DSTF) in 2018 to study and report on issues relating to youth with involvement in the child welfare and juvenile justice systems. The recommendation directed the task force to establish a common, statewide definition(s) for the population, identify resources

¹ Available online at https://caseyfamilypro-wpengine.netdna-ssl.com/media/SComm_Crossover-youth-practice-model.pdf.

² Ryan, J. P., & Testa, M. F. (2005). Child maltreatment and juvenile delinquency: Investigating the role of placement and placement instability. *Children and Youth Services Review*, 27(3), 227–249.

³ Haight, W., Bidwell, L., Choi, W.S., & Cho, M. (2016). An evaluation of the Crossover Youth Practice Model (CYPM): Recidivism outcomes for maltreated youth involved in the juvenile justice system. *Children and Youth Services Review*, 6, 578–85.

⁴ Huang, H., Ryan, J. P., & Herz, D. (2012). The journey of dually-involved youth: The description and prediction of rereporting and recidivism. *Children and Youth Services Review*, 34(1), 254–260.

⁵ Caietti, C.M., Gaines, K., & Heldman, J. (2017). "Improving outcomes for dual status youth," presented at the Beyond the Bench Conference, December 19, 2017. Available online at <http://www.courts.ca.gov/documents/BTB24-2G-00PPT.pdf>.



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needed to meet the needs of youth who are dually involved, and provide other recommendations as may be necessary to improve outcomes for dually involved youth.

The primary role of the DSTF was to engage the judicial branch on issues related to dual status youth. The Task Force also focused on promoting effective judicial practices, learning from jurisdictions that have implemented the Crossover Youth Practice Model, exploring the role of the attorney and guardian ad litem representing the child and the role of the state's attorney, and identifying gaps and strengths in policies and practices that support dual status youth in Texas.

Given the complexity of dual status cases and the need for increased coordination and collaboration, the DSTF identified the need for every youth with a concurrent child welfare and juvenile justice case to have both an attorney and a guardian ad litem (GAL) to advocate on their behalf. Having an attorney ad litem and a guardian ad litem appointed will ensure the youth's wishes and best interests are represented in court. The guardian ad litem can either be an attorney or a CASA volunteer, depending on the preference of the judge and the availability of volunteer advocates in the jurisdiction.

Guardians ad litem and CASA volunteers can act as a bridge between systems to support the kind of coordinated, trauma-informed, rehabilitating and healing approach that every child deserves. The GAL or CASA volunteer can get access to necessary information about the juvenile case from caseworkers and can submit information to the judge in the juvenile case with recommendations related to the youth's best interest. Children and youth who are involved in both systems need a strong advocate who can speak up for them, take a compassionate approach, raise questions about services that seem duplicative and build relationships with juvenile judges, attorneys and probation officers.

RECOMMENDATIONS

The DSTF identified that the role of the guardian ad litem is more defined and broader in the child welfare case than it is in the juvenile case. To better refine and clarify the role of a guardian ad litem in dual status cases, the workgroup recommended changes to Texas Family Code Sections 51.11, 54.01, 54.02, 54.04, 54.05, 54.11, 107.011, 107.022, and 107.006. This includes providing some clarity around confidentiality and when and how information can be shared. These changes will help everyone serving on dual status cases have a clear sense of the role of the guardian ad litem or CASA volunteer, allowing children and youth to have access to the kind of fierce advocacy they deserve.