



# Staff Memorandum

**HOUSE OF DELEGATES  
Agenda Item #14  
(New Business)**

REQUESTED ACTION: None, as the report is informational.

Attached is a proposed amendment to the *NYSBA 2015 Standards for Providing Mandated Representation*, a set of standards designed to apply to providers of mandated representation to ensure quality counsel to those who cannot afford representation. The standards originally were adopted by the House in 2005 and most recently amended in 2015. The Committee on Mandated Representation is proposing an amendment to the standards, as set forth in the attached memorandum. Due to the timing of the submission of this amendment, it is being presented to you on an informational basis at this meeting; it will be posted in the Reports Community and scheduled for debate and vote at the November 2018 House meeting.

A representative of the Committee on Mandated Representation will present the report at the June meeting.

**Memorandum in Support of an Amendment to the  
NYSBA Standards For Providing Mandated Representation**

**New York State Bar Association  
Committee on Mandated Representation  
3/26/18**

The Committee on Mandated Representation urges the New York State Bar Association to adopt a Resolution revising Section B-1(a) of the NYSBA *2015 Revised Standards for Providing Mandated Representation* to provide: “Effective representation includes representation during both the pre- and post-petition stages of a Family Court case, including, but not limited to representation in emergency removal hearings and advocacy for the provision of social work, counseling, mental health, and other services”.

The objective of the *Standards for Providing Mandated Representation* issued by the NYSBA Committee on Mandated Representation is to ensure quality representation in both criminal and family court cases. Quality of legal representation at the pre-petition stage of child welfare cases is critical for the protection of the fundamental and due process rights of families. During the pre-petition period, life-altering decisions are made that can result in the traumatic separation of a child from his or her parent and possibly the permanent destruction of the parent-child relationship.

Research has shown a direct connection between such enhanced representation of parents and improved results leading to permanency for children. When parents’ attorneys provide representation early in the case, they are able to work closely with the family and the social services agency to identify and access appropriate services. Under such circumstances, parents have a better chance for keeping their children out of foster care by maintaining them safely in their care at home. In many New York State jurisdictions, millions in foster care costs can be saved by preserving the family.

The proposed revision seeks to provide the same emphasis on the importance of pre-petition representation of parents in child welfare cases as the NYS Office of Indigent Legal Services *Standards for Parental Representation in State Intervention Matters* and thereby lend much needed support to practitioners who routinely face vigorous opposition and even hostility when defending family rights.

For all of the reasons given above, the Committee on Mandated Representation enthusiastically supports this Resolution, respectfully requesting a revision of the New York State Bar Association’s *2015 Revised Standards For Providing Mandated Representation* providing for the pre-petition representation of parents to preserve the fundamental and due process rights of New York State parents.