



# WASHOE COUNTY

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Other \_\_\_\_\_

## STAFF REPORT

BOARD MEETING DATE: September 8, 2015

**DATE:** September 1, 2015  
**TO:** Board of County Commissioners  
**FROM:** Christopher J. Hicks, District Attorney  
Paul A. Lipparelli, Assistant District Attorney  
**THROUGH:** Kevin Schiller, Assistant County Manager

**SUBJECT:** Action on request from District Attorney to approve the creation one 1.0 FTE, fully benefitted, Deputy District Attorney III position, as evaluated by the Job Evaluation Committee (JEC), in support of indigent child welfare activities, funded 100% by Department of Social Services, in the approximate annual amount of \$170,000, and direct the Comptroller to make the appropriate fiscal and budget adjustments in support of this action. (All Commission Districts)

### SUMMARY

The Board of County Commissioners is asked to approve adding a new deputy district attorney position in the Child Welfare Division of the District Attorney's Office.

**Strategic Objectives supported by this item:** Safe Secure and Healthy Communities

### PREVIOUS ACTION

None

### BACKGROUND

The increased workload in the Child Welfare Division of the District Attorney's Office has caused the existing attorneys and staff to work beyond reasonable limits. It is not sustainable. Federal guidelines dictate the time that children are expected to be in the protective custody system. Falling behind those deadlines causes risk of the loss of federal funding which would be extremely detrimental to the child welfare and indigent care programs. In order to continue effective and efficient representation of the public and the Department of Social Services more personnel are needed.

The Juvenile Dependency System. Reports of abuse or neglect of children (minors) trigger investigations by various government agencies and eventually the Washoe County Social Services Department. An investigation can lead the social workers and other staff of the Social Services Department to help the affected families and living groups to access helpful services and to set up a plan to keep children safe. In some cases, however, the facts gathered in the investigation create reasonable cause to

believe immediate action is necessary to protect the child from injury, abuse or neglect. In such cases the child is then removed from the environment where the abuse or neglect is occurring and placed in protective custody. The Family Court holds a protective custody hearing within 72 hours (excluding weekends and holidays) to determine whether the child should remain protective custody. The child can be returned to the adult from whom the child was taken if the problems that led to the removal of the child are resolved quickly. However, it is rare the underlying problems are remedied within 72 hours and the court typically orders the child remain in the care of Social Services until the court can be satisfied the child can be safely returned. This can take weeks or months—sometimes many. If the child cannot be safely returned, or the adult from whom the child is taken shows no interest in the child’s return or the lacks the ability to properly care for the child, the process of terminating the parental rights of the adult begin. The termination of parental rights clears the way for the child to be permanently placed in an adoptive home.

The Child Welfare Division attorneys provide advice to and represent the Washoe County Social Services Department throughout the processes described above. Those services include:

- consulting with social workers about what the laws allows in the protection of children
- appearing at protective custody hearings
- preparing and filing petitions to initiate proceedings alleging a child is need of protection.
- appearing at follow-up hearings on the custody and placement of children
- advocating for the best interests of the children while the court is monitoring the custody of the child
- litigating legal issues with the representatives of parents, other family members and the children
- litigating (including conducting trials) on the termination of parental rights

The Increase in Workload. Figures for caseloads of the Child Welfare Division are summarized in the table below. Note in particular the projected increase in number of the terminations of parental rights cases which are the most complex and time-consuming functions the division performs.

<u>Year</u>	<u>Protective Custody Hearings</u>	<u>Petitions for Hearings Filed</u>	<u>Termination of Parental Rights Filed</u>	<u>Total Hearings (all types)</u>
2010	283	221	83	1665
2011	269	208	95	1687
2012	319	248	87	1905
2013	428	320	82	2269
2014	440	338	75	2835
2015*	216/432	169/338	51/103	1234/2468

\*Figures for first half of 2015 are shown along with a straight line projection of what is estimated to the year-end total.

A very high percentage of the juvenile dependency cases involve indigent persons. Efforts made in the past few years to increase the legal representation of indigent persons have led to more attorneys representing parents, guardians and children. Recently, the Family Court began a practice of not merely informing parents or guardians of their right to counsel but actually appointing defense counsel for the protective custody hearings. Those hearings are essentially a judicial confirmation of the removal decision in which the court is required to determine whether there is reasonable cause to believe that it would be “contrary to the welfare of the child for the child to reside at his or her home” or “in the best interests of the child to place the child outside of his or her home.” NRS 432B.480. With the presence of the additional attorneys, the protective custody hearings now take much more time and the Family Court has added a second calendar of protective hearings that must be covered by attorneys of the Child Welfare Division. Since the Social Services Department, as represented by the Child Welfare Division attorneys, has the burden of proof in all these proceedings, the social workers and attorneys have to be fully prepared on every case—even in those where the parent or guardian does not show up for the hearing, stipulates with their newly-appointed attorney to the protective custody arrangement, or puts up no opposition to the removal decision.

The increased and earlier involvement of other attorneys has also increased demands for the production of discovery to the defense. The juvenile dependency records of Social Services have special confidential information and great care must be used to prepare those records for release to the defense attorneys. That is very time consuming for Social Services and the District Attorney. Statistics are not available yet to confirm our perception that defense counsel are requesting an increasing number of trials in juvenile dependency cases. The court’s calendar is correspondingly filling up and lots of time is being spent on settlement conferences and mediation to resolve the cases headed for trial.

Additional workload demands on the Child Welfare Division also come from:

- Hearings on involuntary civil commitments of juveniles
- Increasing needs for the use of warrants from the Family Court for the non-emergency removal of children.
- The need for appointment of a court-appointed person to manage any foster child who receives psychiatric care hearings.

### **FISCAL IMPACT**

This request has no fiscal impact on the General Fund. Sufficient adopted budget authority and cash exists within cost center 179300 and within Special Revenue Fund 221 in fiscal support of the creation of this 1.0 FTE District Attorney III position, provided future Legislative changes are not enacted which could endanger the indigent funding stream.

In FY 16, there may have to be transfers in budget authority among functions within the General Fund in order to cover these new expenditures in the office of the District Attorney. If budget amendments or cross function budget transfers are required

to ensure the department does not exceed budget authority at fiscal year-end, those adjustments will be brought back for board notification or approval, as required.

**RECOMMENDATION**

It is recommended that the Board of County Commissioners approve the request from the District Attorney for the creation one 1.0 FTE, fully benefitted, Deputy District Attorney III position, as evaluated by the Job Evaluation Committee (JEC), in support of indigent child welfare activities, funded 100% by Department of Social Services, in the approximate annual amount of \$170,000, and direct the Comptroller to make the appropriate fiscal and budget adjustments in support of this action.

**POSSIBLE MOTION**

I move to approve the request from the District Attorney for the creation one 1.0 FTE, fully benefitted, Deputy District Attorney III position, as evaluated by the Job Evaluation Committee (JEC), in support of indigent child welfare activities, funded 100% by Department of Social Services, in the approximate annual amount of \$170,000, and direct the Comptroller to make the appropriate fiscal and budget adjustments in support of this action.