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REPORT NO. 2 OF THE  
 YOUNG LAWYERS DIVISION  
 PRESENTED JOINTLY WITH THE  
 SECTION OF FAMILY LAW  
 COMMISSION ON DOMESTIC VIOLENCE  
 HAWAII STATE BAR ASSOCIATION  
 AND THE  
 STEERING COMMITTEE ON THE  
 UNMET LEGAL NEEDS OF CHILDREN

RECOMMENDATION\*

*RESOLVED*, That the American Bar Association encourages state, local, and territorial governing bodies and court systems, in conjunction with bar associations, to support and assist in the organization and implementation of waiting rooms for children in every appropriate courthouse.

REPORT

Children are involved in our judicial system more than ever before. On a daily basis, hundreds of children visit courthouses throughout the nation. They come as parties or witnesses, with parents, guardians, friends, or others who have business in the courthouse. Frequently, these children are frightened, overwhelmed, or both. Most courthouses do not have waiting rooms specifically designed for children. Thus, they are not sensitive or responsive to children's special needs.

The American Bar Association Young Lawyers Division, through its nationwide project to address the unmet legal needs of children, has responded to this problem and developed a program for courthouses to meet these needs. The "Courthouse Waiting Rooms for Children" project outlines a model for the organization and implementation of courthouse waiting rooms in which children can read, play with toys, sit on comfortable furniture, perhaps watch videotapes or television, and feel a sense of safety and security.

Courthouse waiting rooms for children are important in that they provide a comforting place to sepa-

\*The recommendation was approved. See page 41.

rate children from the surrounding courthouse activity. Children waiting to testify may be distracted by toys, games, and other familiar activities, decreasing their anxiety and increasing the effectiveness of their testimony. All too often, children who are victims of alleged abuse or neglect must give testimony at a deposition or trial. Under these circumstances, the harsh surroundings of a typical deposition room or courtroom can be very intimidating to the young witness. Whether the child is a witness or simply a visitor, children's waiting rooms have been successful in alleviating the intimidation factor.

In addition, these rooms prevent children from wandering throughout the courthouse while their parents attend to business, increasing both the child's safety and the court's efficiency. Children left unattended in hallways outside courtrooms can easily fall and injure themselves, or worse, be abducted or otherwise harmed by a stranger. Inside the courtroom, on the other hand, children can be a significant distraction. Los Angeles Municipal Judge Linda Miller said, "I've had to send children of witnesses out into the hallway because they were making so much noise. It's not safe for the kids [to be unsupervised].... And it's not fair to the parent because he or she can't concentrate on testifying because they're worried about their children."<sup>1</sup>

Despite reductions in justice system funding, communities throughout the country have responded to these concerns by establishing waiting rooms for children that are designed to meet the needs of our jus-

tice system's youngest, and often most vulnerable, participants. Courthouse children's waiting rooms can be established at minimal cost, especially with the support of local businesses, bar associations, and volunteer agencies. When government funding is unavailable, donations of time, supplies, and money can facilitate the implementation and maintenance of these rooms.<sup>2</sup> In one area, the local school board and the Department of Social Services provided resources.<sup>3</sup>

Courthouse waiting rooms for children already have been successfully organized, implemented, and maintained throughout the country. New York State was one of the first to finance a state-wide solution to the issue of children in the courthouse. The New York State Legislature this year allocated \$250,000 to establish children's waiting rooms. These are operated by nonprofit groups that provide 40 percent matching funds,<sup>4</sup> and these groups also staff the rooms. The Foster Grandparents Association, for example, provides volunteer staffing for some of the rooms.

In San Diego, California, the program has one paid manager who coordinates volunteers and fund raising. "Since the first waiting room opened in 1986, over 43,000 children have used the waiting rooms in South Bay, Vista, Family

Court, and the downtown county courthouse."<sup>5</sup> These programs have been so effective that it is now mandated in California that "if a County newly constructs, substantially re-models or refurbishes any courthouse or facility," a children's waiting room will be provided.<sup>6</sup>

Another courthouse waiting room opened in Pittsburgh, Pennsylvania, in 1980, and it is staffed by volunteers from the National Council for Jewish Women. The waiting room provides children with a comfortable, stress-free, safe, and busy environment while they wait for their parents.<sup>7</sup> Some 4,500 boys and girls—from 1 month to 13 or 14 years of age, most of them preschoolers, some of them repeats—spent time in the Waiting Room in 1993....<sup>8</sup>

At a conference in Virginia, young lawyers spent approximately four hours painting, binding carpet, cleaning bookshelves, and preparing a courthouse waiting room. "The group purchased items with funds in its community-outreach budget and also used donated materials."<sup>9</sup> These same local representatives will check monthly to see that the room and its materials are maintained properly.<sup>10</sup> In this particular waiting

room, children are to be accompanied by a parent, guardian, social worker, or other adult with responsibility for them. "It is an environment to provide comfort and safety with activities to occupy the children's thoughts and dispel the dread of testifying."<sup>11</sup>

Other examples include five children's waiting rooms established by the ABA Young Lawyers Division in Washington, D.C. Eugene M. Hamilton, Chief Judge for the District of Columbia Superior Court, estimated that 50 or more children would use the rooms during an average court day.<sup>12</sup> In Florida, the Young Lawyers Section of the Florida Bar is credited with establishing and helping to maintain more than 20 waiting and witness rooms. Walt Disney World generously donated toys and decorations to the Orlando courthouse.<sup>13</sup> Another waiting area was established in Connecticut by young lawyers, with the assistance of the chief family judge and the administrative judges, outside the courtroom most frequently used for family matters.<sup>14</sup>

Common sense and experience show that the best interests of both children and adults are served by courthouse waiting rooms for children. Judge Hamilton of the D.C. Superior Court noted that such rooms would "help the court and the community 'it serves by reducing the threat of witness intimidation, by providing a safe haven and friendly

<sup>1</sup>The ABA Young Lawyers Division has published a pamphlet entitled "Courthouse Waiting Rooms for Children: Addressing the Unmet Legal Needs of Children," that offers a model of the establishment and maintenance of courthouse waiting rooms for children.

<sup>2</sup>Scott Helm, "Children granted court reprieve," *The Goodland Gazette*, Dec. 3-9, 1994, at 1.

<sup>3</sup>In Family Court, Caring for Children: Diverting youngsters as their parents attend to legal affairs," *N.Y. Times*, Jan. 29, 1995.

<sup>4</sup>See, "Courthouse Children's Waiting Rooms: a Program managed by Superior Court," published for the San Diego courts.

<sup>5</sup>Superior Court of California, County of San Diego, Courthouse Children's Waiting Room Program.

<sup>6</sup>See, "Volunteer Information: The Jane B. Lobl Children's Waiting Room at Family Court," published for the Pittsburgh courts.

<sup>7</sup>Beatrice Paul Hirsch, "The children's hour: Off the halls of justice, kids have a room of their own," *Pittsburgh Post-Gazette*, Jan. 29, 1993, at H7.

<sup>8</sup>Jerry Orr, "Washington County establishes state's first child witness room," *Saltville News-Messenger*, Dec. 23, 1994 at A1.

<sup>9</sup>*Id.* at A8.

<sup>10</sup>*Id.*

<sup>11</sup>Ce B. Armistead, "The Unmet Legal Needs of Children: Stepping Into the Solutions At the Fall AOP Conference," *The Barrister*, Winter 1995, at 11.

<sup>12</sup>See, "Courthouse Waiting Rooms for Children: Addressing the Unmet Legal Needs of Children," at 5.

<sup>13</sup>The Connecticut program information was provided by attorney Anne Obidinski, Waterbury, Connecticut.

<sup>14</sup>Doug Brown, "The Case for Child Care at the Courthouse: Noise Interferes With Proceedings: Parents, Judges Say," *L.A. Times*, Jan. 25, 1987, at Part IV, Page 4.

environment away from the crowded public corridors for children who come into the court to testify.”<sup>15</sup> And a mental health professional in Pittsburgh, Florence Schneider, said that

state and local court systems to support the organization and implementation of courthouse waiting rooms for children.

“While parents wait anxiously to see a judge about a major life decision . . . watching their child play and interact with caring adults is reassuring to all.”<sup>16</sup> As society tries to improve the quality of life for children, and improve our nation’s system of justice, the establishment of courthouse waiting rooms for children provides a cost-effective method of helping to accomplish both. Virginia Judge Paul Greer asserts, “It’s an excellent approach. I hope someday we can have (a child witness waiting room) in all the juvenile courts.”<sup>17</sup>

Respectfully submitted,

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August 1996

August 1996

REPORT NO. 3 OF THE

YOUNG LAWYERS DIVISION

PRESENTED JOINTLY WITH THE

SECTION OF INDIVIDUAL

RIGHTS AND RESPONSIBILITIES

AND THE

HAWAII STATE BAR ASSOCIATION

#### RECOMMENDATION\*

**RESOLVED**, That the American Bar Association encourages courts to ensure that counseling, treatment, advocacy and other assistance made available to child victims of abuse and domestic violence through all available means including the imposition of fines, restitution, and court orders.

**FURTHER RESOLVED**, That the American Bar Association encourages courts, in appropriate circumstances, to require the perpetrators of child abuse and domestic violence to undergo counseling and other treatment;

**FURTHER RESOLVED**, That in those jurisdictions where courts do not presently have adequate authority to implement the foregoing recommendations, the American Bar Association encourages state legislatures to enact enabling legislation.

#### REPORT

##### I. Background

Domestic violence and child abuse<sup>1</sup> are horrifying realities in today’s world. The collected data on domestic violence reveals that

— [approximately] six million women are beaten each year, the men in their lives, thousand of whom are killed. — [i]ncidents of domestic violence occur approximately

\*The recommendation was amended and approved. See page 44.

<sup>1</sup>Child abuse is distinguished from other assaults upon children in that it involves injury to a child by “a person entrusted with the care of the child, such as the parent, stepparent, adoptive, paramour of the parent, babysitter, or, in certain situations, day-care provider, teacher, minister.” C.F. Brown, *First Get Mad, Then Get Justice* 107–108 (1993) [hereinafter cited as *First Get Mad*].

<sup>15</sup>Armistead, *supra* note 12, at 11.

<sup>16</sup>Hirsch, *supra* note 8, at H7.

<sup>17</sup>Ort, *supra* note 9, at A8.