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## County seeks more effective guardians for juvenile court

Use of law firms leaves  
unresolved questions on  
heavy caseloads and lack  
of oversight on payments

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Douglas County is considering new oversight of lawyers who represent children in juvenile court proceedings.

Currently, the county has contracts with two law firms to act as guardians ad litem for juveniles. The guardians' role is to act in a child's best interest, often in cases of neglect or abuse,

but also in criminal proceedings.

For years, the system has been criticized as ineffective and unaccountable. Heavy caseloads meant that many guardians ad litem weren't meeting with children as often as required, so they weren't familiar with their clients' needs. Details of payments to guardians are

largely shielded from taxpayer oversight.

Despite state-level reviews and new professional guidelines, problems persist, critics say. And a pending state audit of

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## Guardians: County might create a department of lawyers for kids' cases

Douglas County's system has county administrators floating a new approach: creating a department of lawyers under the County Board to administer guardian ad litem cases.

The county's two contracts cost about \$1 million annually, not counting fees paid to non-contract attorneys appointed by judges, County Administrator Patrick Bloomingdale said. But attorney-client privilege can make it difficult to get details about how the money is spent and whether the children are being represented adequately, he said.

The department would be modeled after the Public Defender's Office, and the depart-

ment head could either hire lawyers who specialize in guardian ad litem work or continue the contractual arrangements.

Other governments have saved money using this setup, sometimes called an "alternate public defender," Bloomingdale said.

Also, it would give the board more oversight on how the money is spent, he said.

State Auditor Mike Foley is wrapping up an audit of the county's handling of guardians ad litem, and county officials are bracing for the results.

"The report's going to say that we're not auditing (the program) properly," Bloomingdale said. "But if we could, we would."

Because state law doesn't expressly provide for the proposed office, county administrators have requested an opinion from the Nebraska Attorney General's Office on whether it would be legal to establish one.

The county also will need buy-in from judges, who make the appointments. As it stands, the judges use attorneys under contract about 80 percent of the time, Bloomingdale said.

Noncontract attorneys are appointed for several reasons, said Ray Curtis, Douglas County Juvenile Court administrator.

For example, if both the parents and children involved in a case are minors, the court will appoint more than one guardian

ad litem, and the contracted law firm cannot represent multiple parties without creating a conflict. Or if an attorney leaves one of the law firms under contract, he or she often will stay on current cases to maintain consistency, he said.

If the Attorney General's Office signs off, Douglas County is guaranteed at least one applicant: County Board member Mike Boyle.

"I'm interested in being that person," said Boyle, an attorney. If chosen, he would have to step down from the County Board.

The Nebraska Supreme Court issued new professional standards for guardians ad litem in 2007, after the scope

of the problem became clear. But many guardians still fail to meet with clients at least once every six months, as required by state rules — or at least fail to document it.

In 2013, less than half of the guardians ad litem contacted for an annual review reported having met with their clients in the previous six months. The rest either had no contact (six percent) or no documentation of contact (43 percent), according to the Nebraska Foster Care Review Board.

“There’s no connection between what these people are paid and the work they do,” said Brenda Vosik, director of the

Nebraska Family Forum, an advocacy group. “There is a need for reform.”

Melanie Williams-Smotherman, executive director at the Family Advocacy Movement and a critic of Nebraska’s juvenile justice system, agrees. She’s glad to see the County Board pushing for greater oversight, but she wants to make sure that any reforms enacted have teeth.

“The County Board at least is accessible to the public,” she said.

Attorney Maureen Monahan, whose law firm holds one of the county contracts, said there’s always room for improvement — but setting up a new depart-

ment under the County Board is misguided.

For one thing, it’s not clear where the county would save money, she said. For another, it’s an encroachment by the executive branch into the judiciary — and such an arrangement creates grounds for an ethics complaint, she said.

“The County Board is essentially a third-party payer,” she said. “My duty is to my client. They can’t tell me how to represent my client.”

Tom Incontro, who holds the county’s other contract, said he’d like to see more details about how this new approach would differ from the existing

setup.

“Conceptually, I don’t think it’s a bad idea,” Incontro said. “It’s what we do already. They can have whatever oversight they want with my office.”

Bloomington hopes this new approach will lead to better outcomes.

If it works, he said, the new department could be expanded to cover other court-appointed attorneys — the county budgeted \$2.4 million for such work this fiscal year — and potentially, to district and county courtrooms as well.

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