

Memorandum in Support

COMMITTEE ON CHILDREN AND THE LAW

Children #11

May 10, 2018

The Committee on Children and the Law Supports the proposed amendment of the Rule Relating to Appointments by the Court (22 NYCRR Part 36)

The Committee on Children and the Law having duly considered the proposed Rule changes regarding Part 36 of 22 NYCRR relating to the elimination of the designation of Attorneys for Children as a “fiduciary” and for the increase in the cap on fees when serving as a privately paid Attorney for the Child supports the proposed Part 36 Rule changes for the following reasons:

1. As to the designation of Attorneys for Children (AFC) as fiduciaries, the Committee believes that such a designation is inaccurate since an AFC never plays a role as a fiduciary in Part 36 assignments, and such a designation tends to mislead counsel for the parents and the public to believe AFC’s are somehow “guardians” for the child and not child advocates working as attorneys for their clients as required by Rule of the Chief Judge, 7.2 .
2. Increasing the “cap” on earnings reflects the recognition that the practice of law continues to have ever increasing overhead and the need to create economic incentives for those considering the practice of law as an AFC.

Based on the forgoing, the New York State Bar Association’s Committee on Children and the Law **SUPPORTS** this proposal.