



Survey of Attorneys Regarding Virtual Child Welfare Hearings

Introduction

The National Center for State Courts has been working to understand the use of virtual child welfare hearings since the COVID-19 pandemic caused courts to host hearings on remote platforms so that child welfare cases could continue progressing. Child, parents, and agency attorneys play an essential role in child welfare proceedings, and we have included them in our exploration of virtual hearings. While remote or telephonic hearings have historically been available to courts, the widespread use of web-based hearings required adaptations to how attorneys prepared for hearings, interacted with their clients, and communicated with other court professionals. As the field acknowledges certain benefits of virtual hearings, such as reducing barriers associated with families traveling to court and enabling attorneys to appear in multiple courtrooms in a single day, many jurisdictions have continued to allow virtual hearings for child welfare hearings. As such, there is a need to learn more about how attorneys have adapted their practices to provide high-quality representation in virtual child welfare hearings.

Research Question: How do state, parent, and child attorneys adapt their practices for virtual child welfare hearings, with a particular emphasis on indicators of high-quality representation?

Methods

We contacted Court Improvement Programs and invited them to participate in an attorney survey. To participate, they needed to be able to disseminate the survey statewide, which often required a central office or listserv. Nine states chose to participate. We worked with each state to refine the survey to match their local terminology (e.g., what they call attorneys in child welfare). Some sites could centrally share with all attorney types (child, parent, state), while others only had statewide access to one or two types. The survey included questions

about background demographics and caseload. It also included questions specific to each attorney type (child, parent, state) and focused on whether particular aspects of quality legal representation practices were easier in virtual hearings or in-person hearings. Attorneys were asked to rate each aspect of high-quality legal representation on a 5-point scale from much easier in virtual hearings to much easier in in-person hearings. For items an individual rated as easier in person, we asked if attorneys had adapted practices to be more effective in virtual hearings.

Sample

In total, 762 attorneys across nine states participated in the study, of which 19% were agency/state attorneys, 32% were child attorneys, 7% were parent attorneys, and 43% represented both parents and children. Across attorney types, attorneys had been in their current role for an average of 14 years and had a caseload between 45-58 cases. Most attorneys' caseloads were primarily devoted to child welfare.

Reading this Report

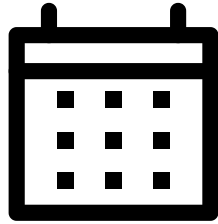
This report is designed to provide a snapshot of the survey results. We report the results for three groups – child attorneys (which includes states that use guardian ad litem or any attorney), parent attorneys, and state/agency attorneys. Attorneys who represent both children and parents are included in both the child attorney and parent attorney sections.

Child Attorneys

565 participants
(241 Child / 324 Child & Parent)



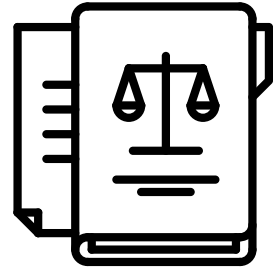
58% practice in both delinquency & dependency cases



Average time in role: 12.5 years

On average, 60% of respondents' child welfare hearings have been virtual in the 3 months prior to the survey

Average caseload size: 59 cases

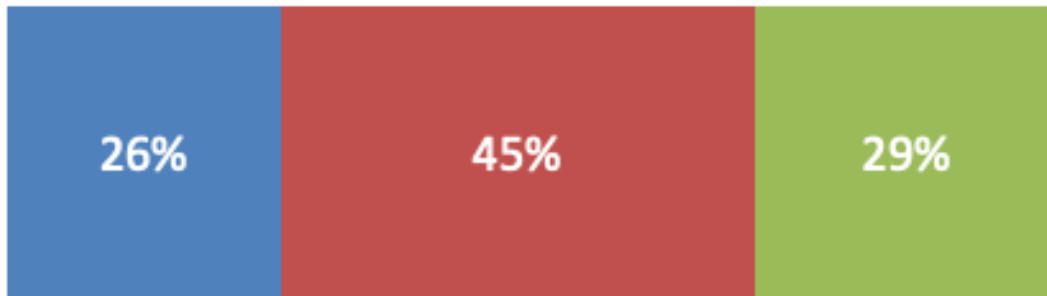


Average caseload: 70% child welfare

47% are contracted to work in this role



Has the size of your caseload changed since the pandemic?
(n=458 applicable responses)



■ Yes, it has decreased (n=121) ■ No, it is the same (n=204) ■ Yes, it has increased (n=133)

In the last three months, on average, how often would you say you meet with each of your clients in-person or virtually? (n=491)



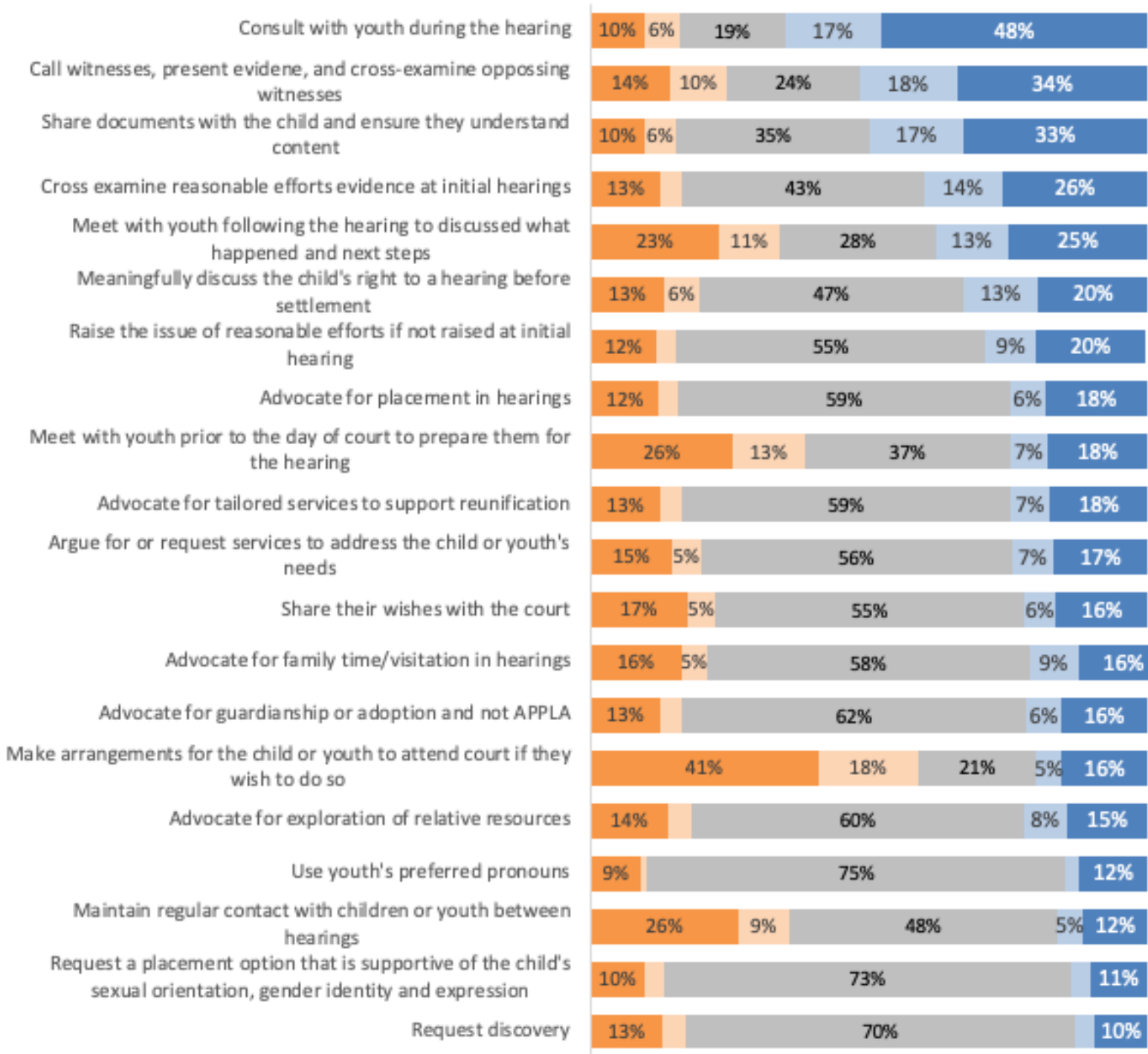
■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

In the last three months, on average, how often would you say you meet with other professionals about each case in-person or virtually? (n=493)



■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

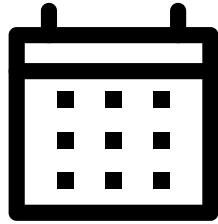
Please rate if it is easier or more difficult to implement the following attributes of high-quality legal representation as an attorney for children in virtual hearings compared to in-person hearings.



■ Much easier with virtual hearings
 ■ Somewhat easier with virtual hearings
 ■ About the same
■ Somewhat easier with in-person hearings
 ■ Much easier with in-person hearings

Parent Attorneys

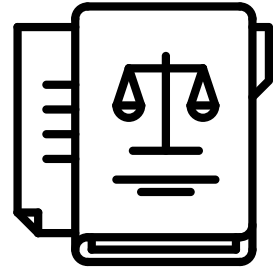
376 participants
(52 Parent / 324 Child & Parent)



**Average time in
role: 14 years**

On average,
50% of
respondents'
child welfare
hearings have
been virtual in
the 3 months
prior to the
survey

**Average caseload
size: 52 cases**

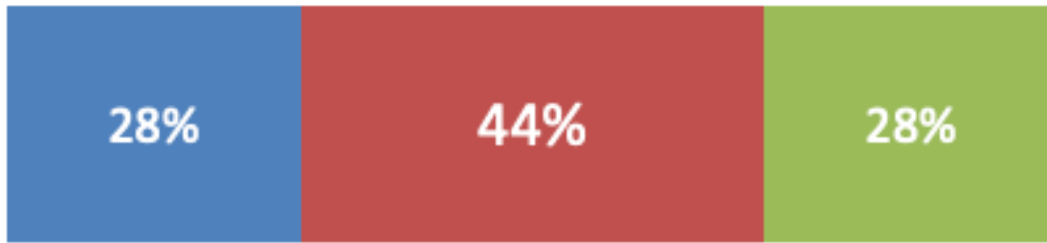


**Average caseload:
65% child welfare**

**56% are contracted
to work in this role**



Has the size of your caseload changed since the beginning of the pandemic? (n=309)



■ Yes, it has decreased ■ No, it is the same ■ Yes, it has increased

In the last three months, on average, how often would you say you meet with each of your clients in-person or virtually? (n=331)



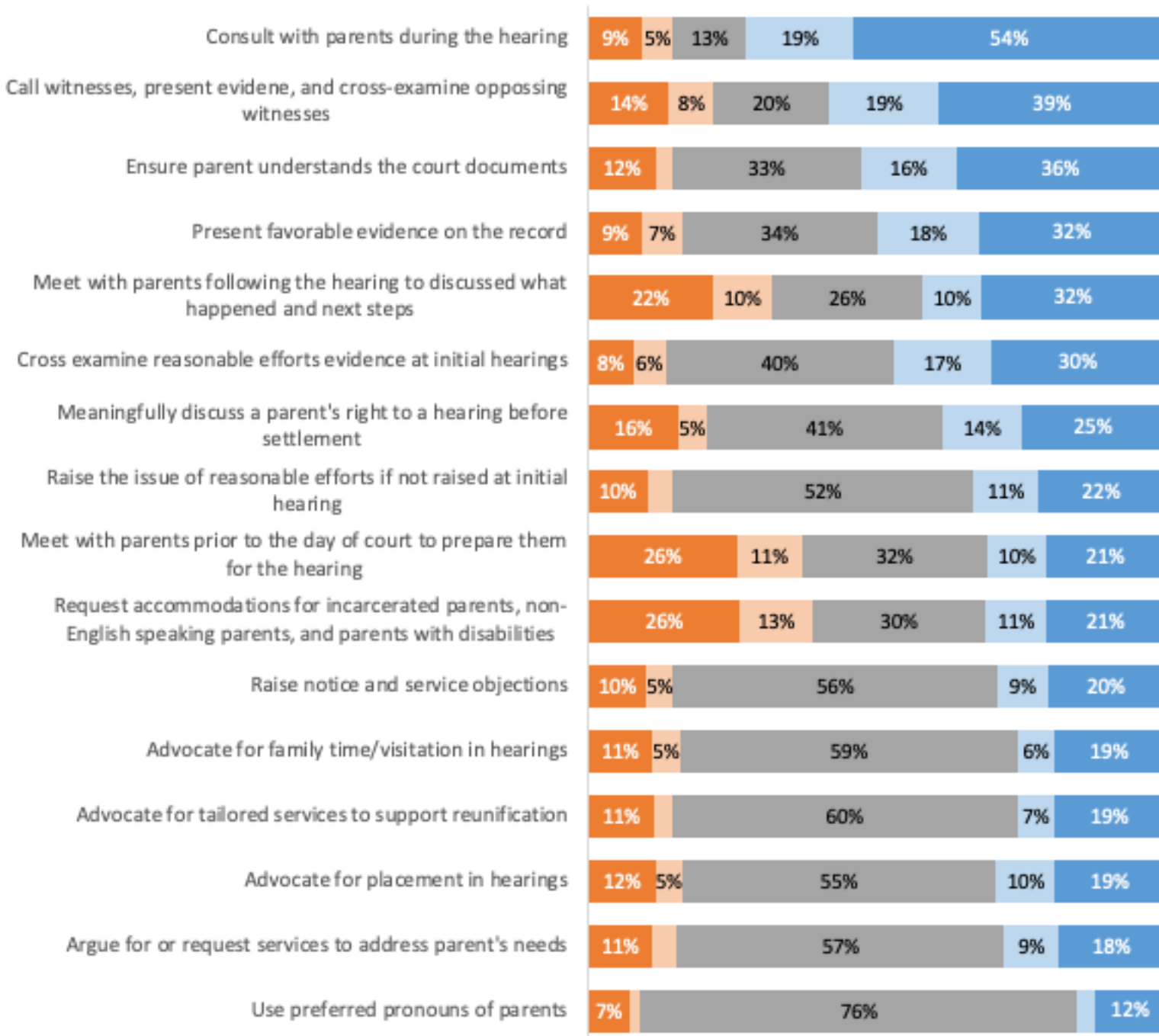
■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

In the last three months, on average, how often would you say you meet with other professionals about each case in-person or virtually? (n=333)



■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

Please rate if it is easier or more difficult to implement the following attributes of high-quality legal representation as an attorney for parents in virtual hearings compared to in-person hearings.

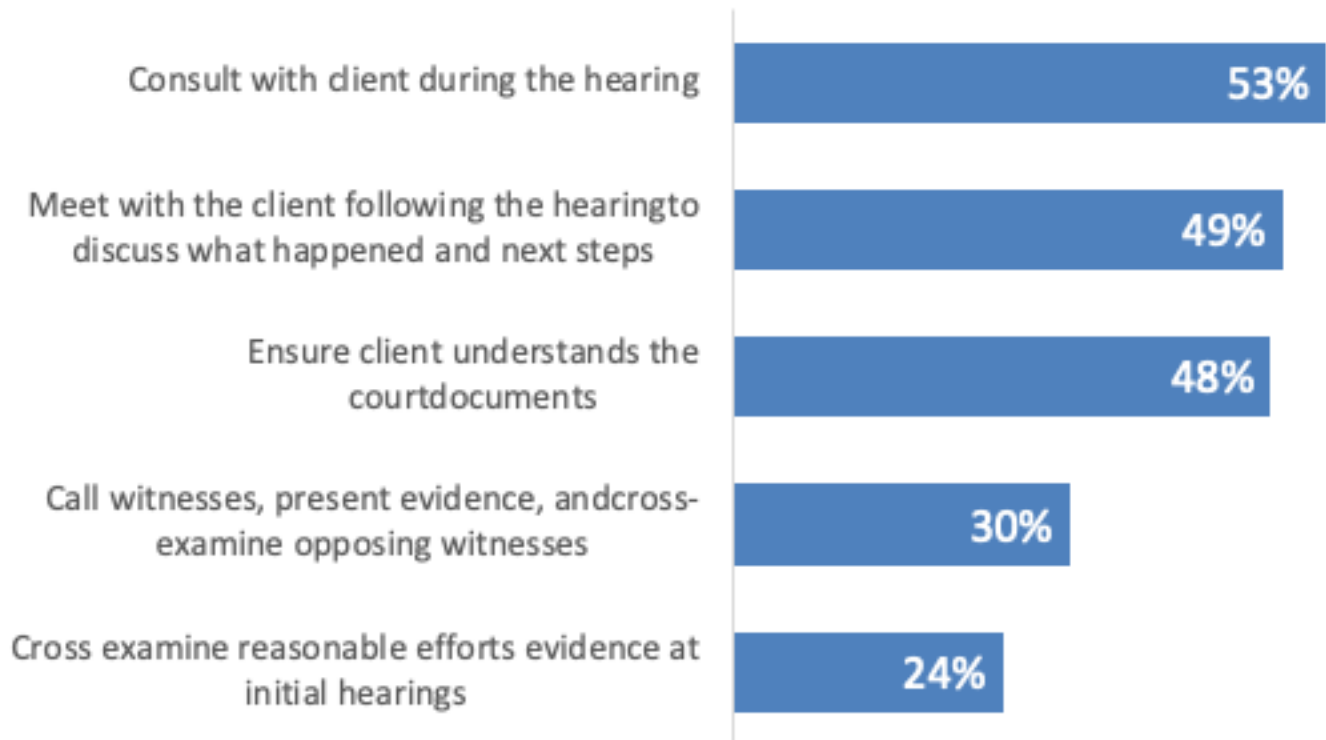


■ Much easier with virtual hearings
 ■ Somewhat easier with virtual hearings
 ■ About the same
■ Somewhat easier with in-person hearings
 ■ Much easier with in-person hearings

Virtual Adaptations and Benefits

Child and parent attorneys who marked attributes of high-quality legal representation as somewhat or much easier to implement with in-person hearings were asked if they made any adaptations to make them work better in virtual hearings. The most commonly adapted attribute and the percentage of attorneys who adapted it is displayed below:

Percentage of Child or Parent Attorneys Who Reported Adapting Practices in This Area for Virtual Hearings

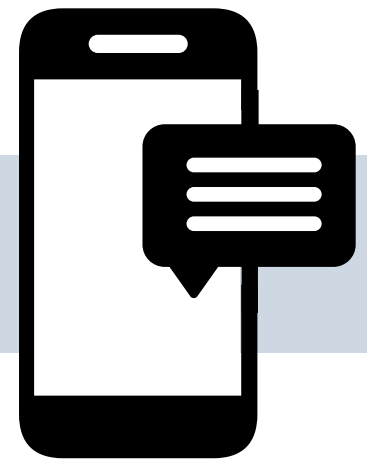


Adaptations and Benefits

The most common adaptations made by child and parent attorneys, along with the benefits attorneys saw from their use, include:

Communication

- Holding remote meetings before and after hearings, to schedule services, and to review documentation is accessible for families because it can accommodate their schedules and save time
- Utilizing breakout rooms during virtual hearings allows for meaningful private discussion between attorneys and clients
- Texting to communicate during and in between hearings allows for communication without causing interruptions and enables quick check-ins with clients



Document Sharing & Review



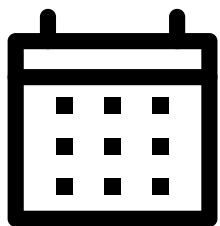
- Submitting and sharing evidence virtually ensures that evidence is accessible to all parties/witnesses
- Screen-sharing allows attorneys to easily review documents with parents and youth to ensure their understanding

Prior Preparation

- Increased preparation prior to hearings helps ensure attorneys can effectively advocate for clients and respond to issues that may arise during remote hearings

State/Agency Attorneys

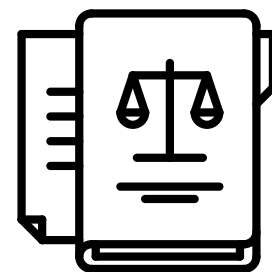
140 participants



Average time in role: 14 years

On average, 61% of respondents' child welfare hearings have been virtual in the 3 months prior to the survey

Average caseload size: 58 cases

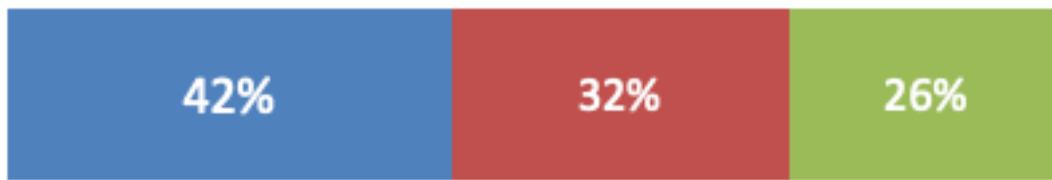


Average caseload: 91% child welfare

3% are contracted to work in this role

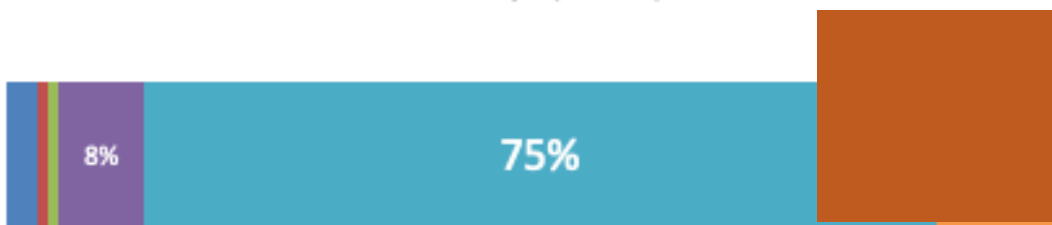


Has the size of your caseload changed since the beginning of the pandemic? (n=104)



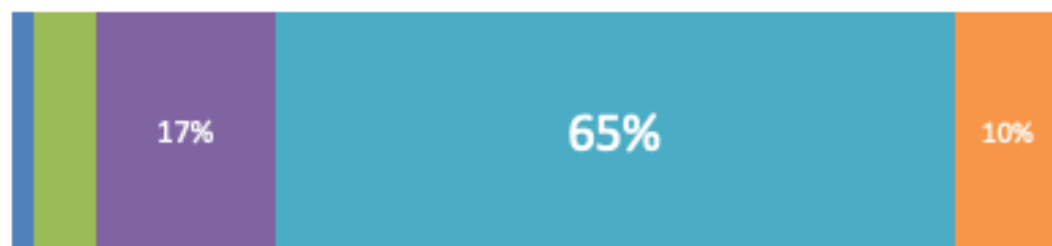
■ Yes, it has decreased (n=44) ■ No, it is the same (n=33) ■ Yes, it has increased (n=27)

In the last three months, on average, how often would you say you meet with each of your clients in-person or virtually? (n=120)



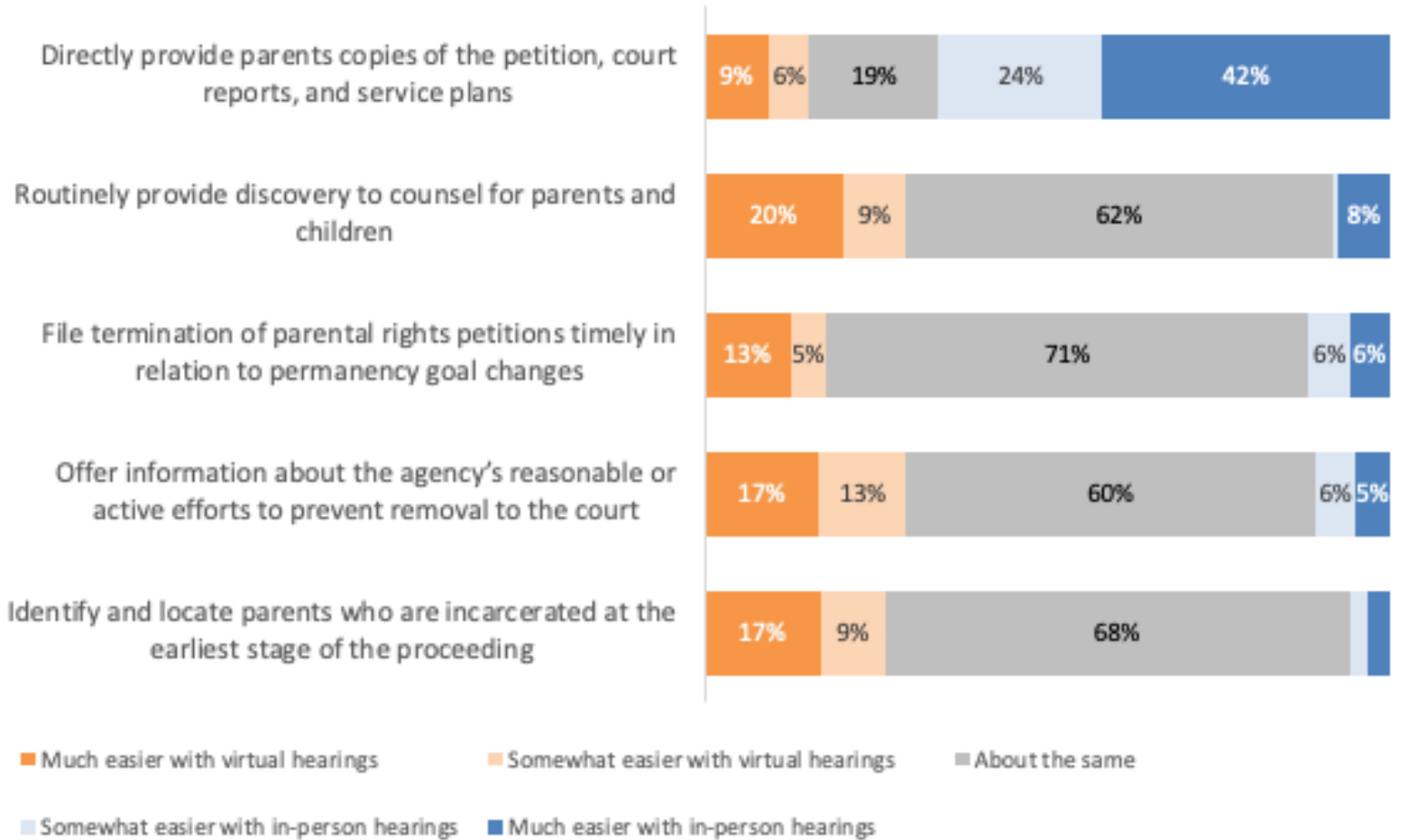
■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

In the last three months, on average, how often would you say you meet with other professionals about each case in-person or virtually? (n=121)



■ Less than quarterly ■ Quarterly ■ Once every other month
■ Once a month ■ More than once/month ■ Other

Please rate if it is easier or more difficult to implement the following attributes of high-quality legal representation as an attorney in virtual hearings compared to in-person hearings.



Virtual Adaptations and Benefits

Agency attorneys who marked attributes of high-quality legal representation as somewhat or much easier to implement with in-person hearings were asked if they made any adaptations to make them work better in virtual hearings. The most commonly adapted attribute and the percentage of attorneys who adapted it is displayed below:

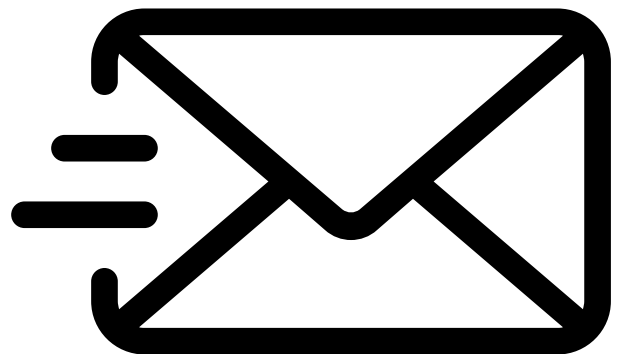
Directly provide parents copies of the petition, court reports, and service plans

42%

Communication Adaptations

The adaptations agency attorneys made and the benefits they saw from changing how they provide parents with important documents in virtual hearings include:

- Emailing documents to parents and their counsel was a widely adopted practice that attorneys reported made service easier



- Shifting to virtual proceedings, e-filing, and sharing of documents electronically allowed parents and their attorneys to access important documents at their convenience

Conclusions

The attorney survey provided insight into current questions about attorney experiences and practices with virtual child welfare hearings. We wanted to know what aspects of high-quality representation attorneys thought were easier virtually or in person. We also wanted to know what adaptations had been made to practice. Results were similar for parent and child attorneys. This is what we learned:

For Parent and Child Attorneys

Easier virtually:

- Requesting accommodations for parents who needed them
- Meeting with the client before court
- Making arrangements for the child to attend court

Easier in-person

- Consulting with parent or youth during the hearing
- Cross-examining witnesses
- Ensuring parent or child understands documents.

Adaptations were made to address these issues, including identifying ways to better communicate with clients before and during hearings (e.g., breakout rooms and messaging apps). Attorneys also reported increasing preparation before hearings.

For State or Agency Attorneys

Agency or state attorneys reported that most aspects of their practice were the same whether virtual or in-person. The one practice attorneys rated as much easier in person was providing copies of petitions or court documents to parties. They have adjusted for this by using e-filing and electronic sharing of documents.

Conclusions

Many attorneys who found specific aspects of high-quality representation easier to practice in person have made adjustments to try to ensure high-quality legal representation in virtual hearings. Embracing the use of technology to support legal representation is one of the most common adaptations, along with spending more time preparing or meeting with clients before the hearing. While there are several practices attorneys rate as easier in-person, attorneys are adapting to ensure virtual platforms can also be effective in child welfare.