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# Lawyers for foster children using money awarded in Texas lawsuit to lobby lawmakers

Key GOP lawmakers blast the move as a “shakedown” and “alarming.”



Lawyers for more than 10,000 children in Texas’ much-criticized system of long-term foster care have used part of their taxpayer-paid fees to hire lobbyists to advocate for increased state funding of foster care. On Wednesday, key GOP lawmakers blasted the move as a “shakedown” and “alarming.” (Smiley N. Pool / Staff Photographer)



By [Robert T. Garrett](#)

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AUSTIN — Lawyers for more than 10,000 children in Texas’ much-criticized system of long-term foster care have used part of their taxpayer-paid fees to hire lobbyists to advocate for increased state funding of foster care.

On Wednesday, the unusual move drew sharp rebukes from the House and Senate’s top two child-welfare policy writers. The Republican leaders’ hostile reaction raised doubts about whether the novel tactic actually would work — and result in increased state investment.

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Senate Health and Human Services Committee Chairwoman Lois Kolkhorst, R-Brenham, questioned the circular use of what originally was taxpayer funds to lobby for greater state spending.

“I am very concerned that the attorneys representing the children in this case would be independently hiring lobbyists to access more taxpayer funds,” she said in a written statement. “This is an alarming practice and it begs the question of what their role and intentions are going forward.”

Asked if hiring lobbyists would succeed in augmenting the state’s child-welfare budget, Rep. James Frank replied, “I don’t think it’s a great look for them.”

“The shakedown continues — professional level, now,” said Frank, who heads the House Human Services Committee. For years, the Wichita Falls Republican has questioned the plaintiffs’ lawyers’ true motives.

“It’s been a long time since this has been about the kids,” he said. “When you take it to this level, it does nothing but reinforce in the minds of decision makers that this is not about the kids.”

Lead children’s lawyer Paul Yetter, whose Houston-based Yetter Coleman law firm received more than \$4.7 million in attorney fees paid by the state, said hiring Austin lobbyists such as Kerry Cammack, Albert Hawkins and Shera Eichler is “absolutely” appropriate.

“The money is going to help the children,” Yetter said in a written statement. “The Texas firms are taking no payment for their work. The State had to pay the fees because it violated Texas children’s constitutional rights. I can’t think of a better way to use the funds.”

Yetter noted that lawyers worked for free and the legal fees awarded have been put in a trust account to be used to help the state. The state rebuffed the lawyers’ efforts to use the fees as seed money for a new technology system. And the state has made no suggestions on its own about how to use the money, he said.

## **Details of lobby effort**

As of Feb. 14, the lawyers for the plaintiff children had hired at least five lobbyists and pledged to pay them up to \$344,000 this year. Yetter, though, said the lobbyists’ pay will be less than one-

third of that amount — “\$20,000 a month total for five months.” The current legislative session lasts five months, ending on May 29.

According to data from the Texas Ethics Commission, four of the five lobbyists registered in the final two months of last year.

In December, one of the lobbyists’ first moves was to request a meeting with Stephanie Muth, Gov. Greg Abbott’s newly announced selection to run the Department of Family and Protective Services.

The meeting occurred early last month, during Muth’s first week as the agency’s commissioner, according to her calendar entries, which *The Dallas Morning News* obtained, using the state open records law.

“To advise of efforts to be undertaken on behalf of plaintiffs’ attorneys to advocate for improved funding for the foster care system,” reads the portion of Muth’s calendar that was released, under “purpose of meeting.”

On Dec. 2, lobbyist [Hawkins](#) requested the meeting. He’s the former executive commissioner of the Health and Human Services Commission, which is one of three defendants in the foster care suit, along with Abbott and the protective services agency Muth heads.

Other lobbyists who attended the Jan. 4 meeting with Muth were veteran Austin lawyer-lobbyist [Cammack](#), the husband of former Texas Supreme Court Justice Harriet O’Neill; and [Eichler](#), who for 16 years was chief of staff to former Rep. Dennis Bonnen. Eichler was director of the office of House speaker when Bonnen ascended to that position in 2019.

Not attending but also registering to represent “class counsel for the certified class of children in the permanent managing conservatorship” in the federal litigation have been Cammack’s lobby partner Katie Carmichael, a former aide to former Railroad Commissioner David Porter; and lawyer-lobbyist [Randy Cubriel](#).

Last August, the protective services department, parent agency of Child Protective Services, asked for about \$5 billion in all funds, including for its “exceptional items,” during the next two-year budget cycle. Quite recently, it increased the total “ask” by almost \$330 million.

Department spokesman Patrick Crimmins, though, said the Jan. 4 meeting didn’t spur the enhanced request for funds. That “was already in the works, and this meeting had absolutely no impact,” he said. Crimmins said joining Muth at the meeting were deputy commissioner Jennifer Sims and acting chief of staff Joey Reed.

“When the meeting was requested on Dec. 2, the Commissioner immediately realized that it was related to the Foster Care Litigation, and obviously she is a defendant in that case,” Crimmins said.

“Because of that, Legal was consulted to see if, as a defendant, this meeting was appropriate. Legal had no objection to the meeting and it was scheduled.”

## Foster care lawsuit: Lawyers for the children hire lobbyists

Lawyers for foster children recently took some of their taxpayer-paid fees and used the money to hire lobbyists to advocate for increased state funding of foster care.

Here are attorney fees awarded so far:

| Firm                          | Fee amount     |
|-------------------------------|----------------|
| Children’s Rights (New York)  | \$6,313,029.51 |
| Yetter Coleman (Houston)      | \$4,743,025.10 |
| Haynes and Boone (Dallas)     | \$1,205,678.68 |
| A Better Childhood (New York) | \$503,837.44   |

### State taxpayers foot an ever-growing bill

|                  |   |
|------------------|---|
| \$43.5 million   | Court-appointed monitors who check on state compliance with the judge’s orders                                |
| \$12.8 million   | Attorney fee and legal costs awarded to counsel for plaintiff children  |
| \$559,544 a year | Seven full-time, non-attorney Department of Family and Protective Services employees working on compliance    |
| \$6.6 million    | Other costs for state lawyers’ and other state staff members’ time, travel, transcription services, 2011-2016 |

Plaintiffs’ lawyer Yetter, asked to describe his lobbyist team’s specific request of lawmakers, did not offer a dollar amount.

“Our goal is simple: safe homes with the right services in the right places,” he said. “Our priorities include a new technology system to track the children, better funding for foster care (especially kinship) providers, and statewide mental health services. The court’s remedial orders and expert panel recommendations lay out our goals.”

He was referring to a [panel of three national child-welfare experts](#) that, in early 2022, U.S. District Judge Janis Graham Jack created to suggest remedies for “children without placements,” or CWOPs. For at least 15 years, Texas has been embarrassed because on any given night, it couldn’t find child placing agencies or congregate-care institutions that would accept all of the children in its care.

“The expert panel’s fees are ongoing, but they total less than \$100,000,” Yetter said. “We are paying these costs to help the State find a solution to having hundreds of children stay in unsafe and unlicensed facilities.”

In earlier years, the Texas-based lawyers for the children offered to give back to the state all of the more than \$5.9 million in legal fees they eventually were awarded, to help Texas improve clunky computer systems.

## Trust account

Yetter Coleman and Dallas-based Haynes and Boone worked for free in the case, and put the fee-award money in a trust account, “awaiting direction from the Court on which entity she wishes those monies to go to,” said Barry McNeil, senior counsel at Haynes and Boone. It got more than \$1.2 million in fees. Yetter Coleman received more than \$4.7 million.

By “Court,” McNeil meant Jack, who has presided over the 12-year-old federal lawsuit. Just more than seven years ago, Jack ruled that children in long-term foster care in Texas “almost uniformly leave state custody more damaged than when they entered.”

**Related:** [Judge: Sexual assault, death of teens in foster care shows Texas still needs to do more](#)

Texas has obsolete IT systems that hobble the important work of CPS caseworkers and state Health and Human Services Commission inspectors charged with ensuring foster children have safe placements, Yetter said.

“We offered to use the trust funds as seed money for a new technology system,” he said. “The State never responded.”

Also, the state “made no suggestions” of its own on how the lawyers might use their surrendered fee awards to help kids, Yetter said.

So the two Texas law firms decided to pay up to \$100,000 to hire lobbyists to urge lawmakers this session to boost funding for the system, Yetter said.

Marcia Robinson Lowry, founder of both Children’s Rights and A Better Childhood, two New York-based public interest groups that are involved in the case, recruited Yetter Coleman and Haynes and Boone to help bring the suit in 2011.

On Wednesday, she said Children’s Rights (awarded \$6.3 million of attorney fees) and A Better Childhood, the group she now runs (awarded about \$504,000), “are not-for-profit organizations that use their fee awards to continue their work on behalf of children.” (Jack approved attorney fees in two orders, one in August 2020 and another last November. Haynes and Boone hasn’t asked for any more money since 2020, McNeil noted.)

Lowry, who originated the idea of suing governments over shoddy foster care systems, agreed the Texas firms have deployed an unusual tactic.

“I don’t know of other lawsuits in other states where such money has been received as fees and costs, then set aside and used post-judgment to lobby on behalf of the plaintiff class,” she said.

Yetter defended it, noting Texas fought the class-action suit more vigorously than any other state sued by Lowry.

Kolkhorst and Frank, who have touted the Legislature’s increased funding of CPS in recent sessions, have castigated the lawsuit as an unnecessary and costly intrusion that amounts to micromanaging a state function. Hiring lobbyists is out of bounds, they agreed.

“There’s a number of people who are starting to believe this is much more about money for individuals than it ever is about kids,” Frank said.

Kolkhorst said, “These revelations give the appearance of blurred lines between the court monitors, the federal judge and the attorneys representing the children in this case. ... My colleagues and I will continue to work to improve the care of children in foster care and will focus on what’s best for Texas children, not what’s best for lawyers, lobbyists or vendors.”

**Related:** Children sleeping in CPS offices won’t end unless Texas officials take bolder action, lawyers say



[Robert T. Garrett](#), Austin Bureau Chief. Bob has covered state government and politics for The Dallas Morning News since 2002. Earlier, he was a statehouse reporter for three newspapers, including the Dallas Times Herald. A fifth-generation Texan, Bob earned a bachelor's degree from Harvard University. He covers Gov. Greg Abbott, the state budget and CPS and foster care.

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