

**MENTAL HEALTH ADVOCACY SERVICE
and CHILD ADVOCACY PROGRAM**

I. Statutory Basis for our Representation

- A. "The service shall provide legal counsel to all patients requesting such service and who are admitted for treatment pursuant to this Chapter, including, but not limited to, voluntary or involuntary admission, commitment, legal competency, change of status, transfer, and discharge," LSA-R.S. 28:64(A)(2); Brad et al. v. Treen, C.A. #81-1094 (E.D. La).
- B. "The service shall provide legal counsel to all patients requesting such service and who are admitted for treatment pursuant to this Title, including, but not limited to, voluntary or involuntary admission, commitment, legal competency, change of status, transfer, and discharge," Children's Code Article. 1405(A).
- C. "MHAS shall provide legal counsel, as availability is determined by its executive director, to minors admitted for mental health or substance abuse treatment pursuant to the dispositional alternatives as provided in the other Titles of this Code, including but not limited to Titles VI and VIII. Ch.C.Art. 1405(B).
1. Ch.C. Art. 683(E) (counsel to children subject to institutionalization for mental illness in abuse and neglect cases),
 2. Ch.C. Art. 781(D) (counsel to children subject to institutionalization for mental illness in family in need of services cases),
 3. Ch.C. Art. 809(C) (counsel to children subject to institutionalization for mental illness in delinquency proceedings).
- D. Representation in forensic matters.
1. Incompetent criminal defendants found unlikely in the foreseeable future to be capable of standing trial must be released or remanded to LDH which "may institute civil commitment proceedings pursuant to Title 28". Code of Criminal Procedure article 648(B)(3)
 2. Ch.C. Art. 832, 809(C) (counsel to children pleading mental incapacity to proceed in delinquency proceedings),
 3. Ch.C. Art. 809(C) (counsel to children pleading insanity in delinquency proceedings).

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Staff Meeting*

E. "The Child Advocacy Program, referred to hereafter in this Article as the 'program', is hereby established within the Mental Health Advocacy service authorized pursuant to R.S. 28:64. The program shall provide qualified legal counsel to children in child abuse and neglect cases, subject to availability as determined by the director of the program, in those jurisdictions designated by the Louisiana Supreme Court and pursuant to Children's Code Article 560." Ch.C.art. 1405.1(A), (B). See Ch.C.art. 607 (mandatory appointment of CAP in need of care cases).