

June 9, 2021

Dear Senate HELP Committee:

The [National Association of Counsel for Children](#) (NACC)¹ applauds Senator Murray's and Senator Burr's proposal to to reauthorize the Child Abuse Prevention and Treatment Act (CAPTA) with revisions to guarantee a right to legal counsel for children and parents in child welfare court proceedings. Assuring children and parents access to a licensed attorney would align federal law with best practice and a growing body of research demonstrating the positive impact of high-quality legal representation. NACC enthusiastically supports this change, while also recommending several revisions that would simplify language and streamline implementation to better comport with existing state law. These recommendations are [detailed here](#).

All parties deserve effective and zealous legal representation to ensure their voices are heard, to advocate for their needs, and to help navigate the complex labyrinth of child welfare processes that shapes their lives and futures. These are complex legal matters - often implicating numerous federal and state laws, expert testimony from clinicians, and the intersection of education, medical, and mental health systems. While a volunteer Court Appointed Special Advocate (CASA) can be helpful in conveying information to the court, they are lay advocates, not substitutes for legal representation.

Attorneys are uniquely qualified to file motions and appeals, call and cross-examine witnesses, give voice to their client's counseled wishes, develop plans for family or sibling reunification, harness legal protections around school stability, or pursue other well-being priorities. When a child has a medical problem, they need a doctor; when a child has a legal problem, they need a lawyer. In no other profession do we accept the substitution of a lay volunteer for a licensed professional.

There is a growing body of research linking the early appointment of trained counsel to improved outcomes for children. A rigorous 2008 study in Palm Beach County, Florida conducted by researchers at Chapin Hall, University of Chicago, found that children assigned lawyers achieved permanency at significantly faster rates and with more individualized case plans than children who did not have lawyers.² Another more recent evaluation found children were 40% more likely to leave foster care within their first six months when the child's attorney was specially trained.³ The federal Children's

¹ The National Association of Counsel for Children (NACC) is a non-profit association of over 1700 legal professionals dedicated to advancing the rights, well-being, and opportunities of children impacted by the child welfare system through high-quality legal representation. Our members include attorneys who represent children, parents, and agencies in these cases as well as judges, academic experts, CASAs, social workers, and pediatricians.

² Zinn, A. & Slowriver, J. (2008), *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County*. Chapin Hall Center for Children at the University of Chicago.

³ Duquette et. al, (2016) *Children's Justice: How to Improve Legal Representation of Children in the Child Welfare System*, p.185. ABA Publications; Orlebeke, B., Zhou, X., Skyles, A., & Zinn, A. (2016). See also, *Evaluation of the*

Bureau has affirmed the “widespread agreement in the field that children require legal representation in child welfare proceedings” which is “rooted in the reality that judicial proceedings are complex and that all parties, especially children, need an attorney...”⁴

Likewise, it is widely recognized that high-quality legal representation for parents is an essential component of a fair and effective child welfare system. Numerous studies support common sense conclusions that providing parents access to competent counsel at the earliest stage and throughout court proceedings gives parents a voice in the process, ensures relevant information is conveyed to the court, and is more likely to result in tailored case planning and faster permanency outcomes.⁵

The timing is also ripe for this change. In 38 states and the District of Columbia, children and youth already have access to legal counsel. Nearly half of all states are drawing down [Title IV-E reimbursement for legal representation](#), the U.S. Children’s Bureau has [issued helpful guidance](#) to states, and the non-profit and philanthropic partners are aligned behind a common vision of high-quality legal representation for all parties in child welfare proceedings. The field is primed to ensure the success of this revision.

Thank you for your consideration. Please let us know if you have any questions or requests for additional information. It is paramount for all parties to have the benefit of legal counsel if we are ever to build a child welfare system worthy of the young people it serves.

Sincerely,



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QIC-Children Best Practices Model training for attorneys representing children in the child welfare system. Chicago, IL: Chapin Hall at the University of Chicago, https://www.chapinhall.org/wp-content/uploads/QIC-ChildRep_Chapin_Hall_Evaluation.pdf, p.14.

⁴ Administration for Children, Youth and Families Information Memorandum ACYF-CB-IM-17-02. “High Quality Legal Representation for All Parties in Child Welfare Proceedings.” January 17, 2017. Available at: <https://www.acf.hhs.gov/sites/default/files/cb/im1702.pdf>

⁵ Key Studies and Data About How Legal Aid Helps Keep Families Together and Out of the Child Welfare System. The Justice in Government Project. Available at: <https://www.american.edu/spa/jpo/toolkit/upload/foster-care-8-8-19.pdf>