

# Federal Fiscal Impact of Access to Counsel for Foster Children



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# Executive Summary

This report evaluates the federal fiscal impact of requiring all states to guarantee access to legal representation for all children involved in child welfare proceedings. While most states already provide counsel, as of December 2025, 13 states — Alaska, Florida, Hawai'i, Idaho, Illinois, Indiana, Maine, Minnesota, New Hampshire, North Dakota, South Carolina, Texas, and Washington do not ensure legal representation for all children for the duration of proceedings while in state custody. This analysis focuses on the federal cost implications of closing this gap, using caseload, expenditure, and cost-benefit data from these 13 states.

Requiring access to legal representation for children in child welfare proceedings produces substantial and measurable fiscal benefits for the federal government. Even under conservative assumptions, the savings associated with reduced time in foster care far outweigh the federal share of representation costs.

Under Title IV-E of the Social Security Act, the federal government reimburses roughly 54 percent of foster care expenditures for IV-E-eligible children across the 13 states, including 50 percent of allowable legal-representation costs, and variable, but typically higher, percentages of foster care maintenance costs.<sup>1</sup> High-quality legal representation has been consistently shown to reduce time in foster care by 16 to 30 percent, leading to faster reunifications, greater placement stability, swifter permanency, and no increase in re-entries. These improved outcomes translate directly into cost savings because the federal government spends approximately \$75.23 in Title IV-E funds for each day an IV-E-eligible child spends in foster care.

This is a conservative estimate that excludes all federal child welfare spending outside of Title IV-E (e.g. Title IV-B, TANF, and Social Services Block Grant) and federal Medicaid dollars spent on clinical care and residential treatment for foster children. It does not address the substantial long-term social costs associated with foster care placements that manifest across multiple public systems including, but not limited to, health care, education, justice, and social services, and are financed by federal, state, and local governments. For that reason, this analysis represents underestimates the total cost savings generated by appointment of counsel for children, with presumed additional savings across these other streams.

Furthermore, this report does not capture foster care costs financed by state, and sometimes local governments. Because, federal cost savings will be mirrored at the state and local levels, and the myriad long- and short-term costs of lengthy foster care placements dwarf the short-term impacts quantified in this report, the savings presented here understates the full public value of expanded representation.

Approximately 20,081 IV-E-eligible foster children currently lacking access to counsel would receive legal representation under this proposal. Using conservative assumptions, the estimated annual federal cost of providing legal representation is \$1,009 per IV-E-eligible child, while the estimated annual savings from reduced time in care are between \$4,393 and \$8,238 per child, **yielding a net federal benefit of \$3,384 to \$7,229 per represented IV-E-eligible child per year.**

Applying the \$3,384 to \$7,229 net benefit to the population of roughly 20,081 currently unrepresented, IV-E-eligible foster children produces an **estimated federal savings of between \$67.96 million and \$145.16 million per year**, once access to counsel is fully phased in, with proportional savings appearing in earlier years of implementation. Over the ten-year budget window (2027–2036), assuming a four-year phase-in, the federal government would experience consistent net savings, driven by reduced foster care durations and the resulting lower federal IV-E expenditures.

<sup>1</sup> Federal Title IV-E reimbursement rates vary by cost category. States receive reimbursement for foster care maintenance payments (ongoing payments made to caregivers on behalf of a child in foster care to cover the child's day-to-day living costs while in care) at their Medicaid match rate (Federal Medical Assistance Percentage or FMAP) which, for the 13 states, ranges from roughly 50 percent in New Hampshire to 70 percent in South Carolina. The caseload-weighted average FMAP for the 13 states is 57 percent. Administrative costs, including allowable expenses for legal representation, are reimbursed at a fixed 50 percent rate, while training costs for staff, foster parents, and attorneys are reimbursed at 75 percent. In total, the federal government reimburses an average of 54 percent of state foster care expenditures for IV-E-eligible children in the 13 states.

# Table of Contents

<b>Executive Summary</b> .....	2
<b>Background</b> .....	4
FEDERAL REIMBURSEMENT OF STATE FOSTER CARE EXPENDITURES UNDER TITLE IV-E .....	4
<b>Data and Methodology</b> .....	6
FEDERAL COST OF PROVIDING COUNSEL .....	6
FEDERAL FOSTER CARE COST BASELINE .....	7
NON-QUANTIFIED LONG-TERM IMPACTS .....	8
ESTIMATED SHORT-TERM SAVINGS FROM COUNSEL .....	9
NET PER-CASE FEDERAL IMPACT .....	9
AFFECTED POPULATION IN THE 13 STATES .....	10
TEN-YEAR FEDERAL BUDGET IMPACT .....	13
<b>Limitations</b> .....	14
<b>Conclusion</b> .....	16

# Background

## FEDERAL REIMBURSEMENT OF STATE FOSTER CARE EXPENDITURES UNDER TITLE IV-E

Title IV-E of the Social Security Act is the primary federal mechanism for reimbursing state and local governments for the costs of foster care. Through Title IV-E, states receive federal matching funds for maintenance payments,<sup>2</sup> case management, training, and related administrative expenditures, including legal counsel, for children whose placements meet the program's strict eligibility criteria.<sup>3</sup> Title IV-E funding for independent legal representation of children and parents in child welfare proceedings was initially authorized via a December 2018 change to the Child Welfare Policy Manual 8.1(B), items 31–33, clarified in subsequent Children's Bureau guidance,<sup>4</sup> and later codified under 45 CFR 1356.60(c)(4).

Title IV-E eligibility uses an income test based on 1996 AFDC standards that vary by state, but is roughly equivalent to 35 to 45 percent of the current federal poverty level.<sup>5</sup> Children from families whose income exceeds this threshold do not qualify for federal cost sharing if they are placed in foster care.<sup>6</sup> Federal data indicates that approximately 35 percent of foster children in the 13 states are IV-E-eligible.<sup>7</sup>

Under Title IV-E, the federal reimbursement, or “match,” rate varies by cost category. States receive reimbursement for foster care maintenance payments (FCMP) at the state's Federal Medical Assistance Percentage (FMAP), the matching formula used for Medicaid, which among the 13 states that are the focus of this analysis, ranges from roughly 50 percent in New Hampshire to 70 percent in South Carolina. The caseload-weighted average FMAP for the 13 states is 57 percent. Administrative costs, including allowable expenses for legal representation, are reimbursed at a fixed 50 percent rate, while training costs for staff, foster parents, and attorneys are reimbursed at 75 percent.

All told, through Title IV-E, the federal government reimburses an average of 54 percent of state foster care expenditures for IV-E-eligible children in the 13 states.<sup>8</sup>

2 Maintenance payments are ongoing payments made to foster parents, a group home, or other caregiver on behalf of a child in foster care to cover the child's day-to-day living costs while placed outside their home.

3 U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. (2020). *Title IV-E Eligibility Reviews: Guide for Reviewers*. Washington, DC: Author. Retrieved from: <https://acf.gov/sites/default/files/documents/cb/title-iv-e-review-guide.pdf>.

4 U.S. Department of Health & Human Services, Administration for Children & Families, Children's Bureau. (2020, December 17). Program Instruction ACYF-CB-PI-20-12: Eligibility requirements and application procedures for the Court Improvement Program (FY 2022). <https://www.acf.gov/cb/policy-guidance/pi-20-12>

5 For a family of three in 2025, this equates to annual income of \$9,328 to \$11,923.

6 Foster care costs for children not eligible for federal reimbursement under Title IV-E may be partially offset by funds from other federal sources that target supportive services and systems improvement including Title IV-B formula grants for child welfare and family services (e.g., family support/preservation, reunification, adoption supports), Medicaid coverage for eligible children's physical and behavioral health services, and other flexible or targeted federal streams such as the Title XX Social Services Block Grant (SSBG), TANF (as permitted by state policy), Child Abuse Prevention and Treatment Act (CAPTA) state grants for child protective system improvements.

7 U.S. Department of Health & Human Services, Administration for Children and Families, Children's Bureau. (2024, October 11). Title IV-E programs expenditure and caseload data 2023 [Dataset]. <https://www.acf.gov/cb/report/programs-expenditure-caseload-data-2023>

8 IV-E reimbursements for foster care maintenance and administration constituted 54% of state expenditures for IV-E-eligible foster care maintenance and administration by the 13 states in 2023. See: U.S. Department of Health & Human Services, Administration for Children and Families, Children's Bureau. (2024, October 11). Title IV-E programs expenditure and caseload data 2023 [Dataset]. <https://www.acf.gov/cb/report/programs-expenditure-caseload-data-2023>

## Summary of Assumptions & Limitations

### Key assumptions

1. **Daily federal foster care cost:** The federal government incurs Title IV-E costs averaging \$75.23 per day for each day a IV-E-eligible child remains in foster care.
2. **Time-in-care reduction from legal representation:** 16% to 30%
3. **IV-E eligibility share:** 35% of foster care cases are assumed to be IV-E-eligible.
4. **Federal match for allowable legal costs:** 50%
5. **Federal match for allowable maintenance and administrative costs:** 54%
6. **Phase-in and budget window:** Costs and savings are estimated over a ten-year budget window (2027–2036) assuming a four-year phase-in to full implementation.
7. **Cost structure:** Per-case legal representation costs are assumed to be consistent across covered states and scalable with caseload.

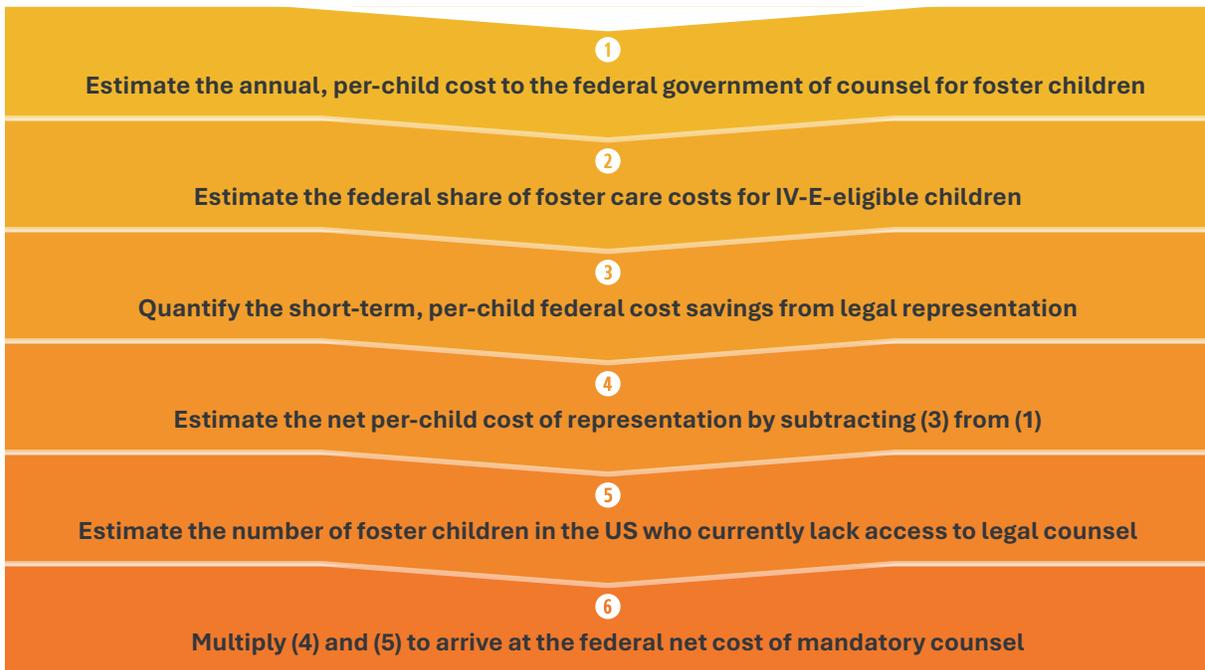
### Limitations

- **Parent counsel excluded:** Although research shows that counsel for parents significantly improves outcomes including improved reunification and shorter time in care, variable state practices and limited data prevent the inclusion of parent counsel in this study.
- **Title IV-E savings only:** Although IV-E is the single most significant source of federal foster care funding, other sources of funding for foster care include Title IV-B, TANF, Social Services Block Grant, and Medicaid. Savings to these programs are not estimated.
- **Long term cost savings not modeled:** Foster care placement has been shown to generate high long-term social costs that manifest across multiple public systems including, but not limited to, health care, education, justice, and social services, that are financed and administered by federal, state, and local governments. The analysis does not model potential downstream effects.
- **Effect size uncertainty:** The 16% time-in-care reduction reflects findings from prior studies and may vary by state, court practice, quality of counsel, and baseline system performance.
- **Marginal vs. average savings:** The \$74.77/day reflects an average federal cost; actual marginal savings from shorter stays may be lower if portions of spending are fixed in the short run.
- **Eligibility variability:** Actual IV-E eligibility rates vary by state, age, and placement type; a uniform 35% assumption may over- or under-state federal-eligible volume in particular jurisdictions.
- **Timing and ramp-up:** Real-world adoption may be slower or uneven across locations, which would delay savings relative to modeled phase-in timing.
- **State and local costs and benefits not included:** State and local governments account for roughly half of all U.S. child welfare spending and will also experience cost savings from improved reunification and shorter time in care.

# Data and Methodology

To estimate the net federal fiscal impact of requiring legal counsel for all U.S. foster children, we first estimate the net cost (costs minus benefits) per child and then apply that to the full population of currently unrepresented, IV-E qualifying children in the 13 states. The steps to estimate the fiscal impact of this proposal are shown in **Figure 1**.

**FIGURE 1** Fiscal Impact Methodology



## FEDERAL COST OF PROVIDING COUNSEL

### *STEP 1: Estimating the annual per capita cost to the federal government of access to legal counsel for foster children*

The per-child annual cost of legal representation was estimated from expenditure and caseload data reported by five states that already ensure such representation for all foster children and one (Washington) that currently ensure representation for a subset of foster children (**Table 1**). Unless otherwise noted, per client spending was estimated by dividing the budgeted appropriation for the office responsible for procuring such representation by the number of children served.

TABLE 1 Per Capita Costs of Legal Representation

State	Perchild estimate (Annual)	Methodology
Colorado	\$ 2,403	Office of the Child’s Representative base per-capita cost <sup>9</sup>
New Jersey	\$ 3,480	\$ 27.395M appropriation/7,868 open child cases <sup>10</sup>
Oklahoma	\$ 1,200	\$ 8,000 monthly attorney stipend, maximum caseload of 80 <sup>11</sup>
New Mexico	\$ 1,413	\$ 3.25M appropriation/2,300 cases <sup>12</sup>
California	\$ 1,750	\$ 186.7M appropriation /106,829 cases <sup>13</sup>
Washington	\$ 1,867	\$ 1.9M appropriation/1,022 cases <sup>14</sup>
<b>Average</b>	<b>\$ 2,019</b>	

Each case is expected to cost \$2,019 annually. The federal government pays 50 percent of the costs of independent legal representation for IV-E-eligible foster children. Thus, the anticipated federal cost per IV-E case is \$1,009 (\$2,019\*50%).

## FEDERAL FOSTER CARE COST BASELINE

### STEP 2: Estimating the federal share of foster care costs for IV-E-eligible children

Short-term federal foster care costs were estimated by dividing federal IV-E expenditures for foster care maintenance payments and administrative costs by the number of IV-E-eligible foster children in each of the 13 states (Table 2), using data reported by states to the Administration for Children and Families on Form CB-496.<sup>15</sup> Specifically, the federal share of maintenance payments and administrative expenditures made on behalf of IV-E-eligible children in out-of-home placements in the 13 states was divided by those states’ average monthly Title IV-E case planning and management (CP&M) caseloads.

Federal spending on foster care averages \$75.23 per IV-E-eligible child per day. This is a conservative estimate based on 2023 expenditures that excludes all federal child welfare spending outside of Title IV-E (e.g. Title IV-B, TANF, and Social Services Block Grant) and federal Medicaid dollars spent on clinical care and residential treatment for foster children.

9 Colorado OCR Budget Request (Dependency & Neglect per-capita). Retrieved from: <https://coloradochildrep.org/>.

10 New Jersey FY25 Budget — Office of Law Guardian (appropriation and caseload tables) Retrieved from: <https://www.nj.gov/treasury/omb/publications/25budget/>.

11 Oklahoma Office of Family Representation <https://oksenate.gov/sites/default/files/2025-01/SC%20FY26%20Budget%20Hearing%20Presentation.pdf> AND <https://www.oklahomafamilyrepresentation.org/wp-content/uploads/2024/05/Implementation-of-FRAP-Office-of-Family-Representation-PowerPoint.pdf>.

12 New Mexico FY26 Executive Budget-in-Brief (Office of Family Representation and Advocacy) Retrieved from: <https://www.nmdfa.state.nm.us/budget/>.

13 Judicial Council of California. (2025, August 25). Circulating Order Memo: Trial Court Budget — Fiscal Year 2025–26 Allocation of Court-Appointed Juvenile Dependency Counsel Funding (CO-25-05) [PDF]. Retrieved from: <https://jcc.legistar.com/View.ashx?GUID=7EA97284-5FF5-49CA-A5BD-A86123AB9CCD&ID=1335073&M=M&utm>.

14 Office of Civil Legal Aid, Children’s Representation Program. Retrieved from: [https://www.courts.wa.gov/content/Financial%20Services/documents/2023\\_2025/Supplemental%20PDFs/8%20OCLA%2015%202023%20Supp%20Children%27s%20Rep%20Program%20combined.pdf](https://www.courts.wa.gov/content/Financial%20Services/documents/2023_2025/Supplemental%20PDFs/8%20OCLA%2015%202023%20Supp%20Children%27s%20Rep%20Program%20combined.pdf).

15 U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. (n.d.). Attachment C – Form CB-496: Title IV-E programs quarterly financial report. [https://acf.gov/sites/default/files/documents/cb/attachmentc\\_form496.pdf](https://acf.gov/sites/default/files/documents/cb/attachmentc_form496.pdf)

TABLE 2 Federal IV-E Foster Care Spending per IV-E Eligible Child per Day

	Federal IV-E Foster Care Spending (FFY 2023) <sup>16</sup>	IV-E Foster Care CP&M Caseload (FFY 2023) <sup>17</sup>	Federal IV-E cost/child/day	
Alaska	\$ 22,057,959	1,033	\$ 58.49	
Florida	\$ 195,772,865	8,102	\$ 66.20	
Hawai'i	\$ 10,933,956	471	\$ 63.57	
Idaho	\$ 16,408,529	820	\$ 54.84	
Illinois	\$ 154,739,837	6,551	\$ 64.72	
Indiana	\$ 75,700,120	2,013	\$ 103.02	
Maine	\$ 18,918,377	1,054	\$ 49.20	
Minnesota	\$ 74,414,242	2,323	\$ 87.75	
New Hampshire	\$ 22,580,522	386	\$ 160.37	
North Dakota	\$ 12,599,289	533	\$ 64.79	
South Carolina	\$ 35,158,533	1,614	\$ 59.70	
Texas	\$ 169,744,554	5,868	\$ 79.26	
Washington	\$ 124,790,003	3,239	\$ 105.55	
<b>Total</b>	<b>\$ 933,818,786</b>	<b>34,006</b>	<b>\$ 75.23</b>	

## NON-QUANTIFIED LONG-TERM IMPACTS

While the present analysis focuses on short-term costs and benefits, it is important to acknowledge the significant long-term and indirect costs associated with foster care. Foster care is associated with substantial long-term social and fiscal costs that extend far beyond the circumstances of abuse or neglect that initially prompted removal. Even relatively stable and time-limited placements where children achieve permanency within a year have been shown to reduce participants' lifetime earnings, increase their health-care utilization, and increase reliance on public assistance.<sup>18</sup>

When foster care experiences are prolonged or unstable, these negative outcomes intensify, producing dramatically higher rates of criminal justice involvement, mental health and substance abuse treatment needs, and intergenerational dependence on public benefits.<sup>19</sup> These effects represent enduring public sector costs and reduced economic productivity attributable not to the initial maltreatment, but to the trauma, instability, and social disruption associated with extended time in care. Research indicates that a child who remains in foster care for multiple years and exits without permanency generates several times the long-term social cost of a child whose stay is brief and stable, underscoring the compounding fiscal and human toll of prolonged foster care involvement. These long-term impacts manifest across multiple public systems including, but not limited to, health care, education, justice, and social services, that are financed and administered by federal, state, and local governments.<sup>20</sup>

16 FY 2023 Title IV-E Foster Care Program, In-Placement Federal Financial Participation Claims. Retrieved from: <https://acf.gov/cb/report/programs-expenditure-caseload-data-2023>

17 FY 2023 Title IV-E Foster Care Program, In-Placement. Title IV-E Case Planning & Management (CP&M) Caseload. WA did not report CP&M caseload for FFY 2023, so the FCMP caseload was substituted.

18 Nielsen, W., Roman, T., & Ecotone Analytics GBC. (2019). The unseen costs of foster care: A social return on investment study. Alia Innovations. <https://www.thetcj.org/wp-content/uploads/2019/10/Alia-unseen-costs-of-FC.pdf>

19 Ibid

20 Ibid.; see discussion of outcome categories and attribution challenges in the methodology section.

## ESTIMATED SHORT-TERM SAVINGS FROM COUNSEL

### STEP 3: Quantifying the short-term per-child cost savings from access to counsel

Legal representation for foster children has been shown to reduce the amount of time children spend in foster care without increasing repeat maltreatment or re-entries or decreasing reunification. The short-term benefits of representation can therefore be quantified as reduced public sector foster care spending.

Peer-reviewed and government-commissioned studies show that access to legal counsel for children reduces the time children spend in foster care and increases the likelihood of safe, timely reunification or other stable exits (adoption or guardianship). These findings are robust across samples in Washington State and Florida and form the empirical basis for the U.S. Children’s Bureau’s 2021–2024 policy shift authorizing Title IV-E reimbursement for such representation.

These results also provide the basis upon which to estimate the impact of improved access to legal representation. **Table 3** summarizes the peer-reviewed studies measuring the impact of children’s legal representation on reunification rates and time-to-permanency that are used in this analysis.

Study / Program	Intervention Type	Main Outcomes	Effect Size / Key Finding
Washington State Dependent Child Legal Representation Program <sup>21</sup>	Client-directed child representation	Overall permanency, placement & school stability	8½ months (≈ 30%) faster permanency; <b>230–250-day reduction in median time in care</b> ; more stable placements, no increase in re-entries
Palm Beach Foster Children’s Project <sup>22</sup>	Client-directed child representation	Adoption and total permanency	Time to permanency was reduced by 16.3% for represented children

Taken together, the studies summarized in **Table 3** suggest an effect size of roughly 16 to 30 percent faster time to permanency for children with high-quality legal representation.

## NET PER-CASE FEDERAL IMPACT

### STEP 4: Estimating the net, per-child cost of representation

By reducing the length of time children spend in foster care, legal representation generates federal savings that substantially exceed its cost (**Table 4**). Under a conservative assumption that representation reduces time in care by 16 percent — as documented in Palm Beach County — the federal government incurs approximately \$1,009 per IV-E-eligible child per year in representation costs while avoiding \$4,393 in Title IV-E foster care expenditures, yielding a net federal savings of \$3,384 per child annually. Under a high-impact scenario consistent with findings from Washington State, where time in care declined by 30 percent, annual federal savings increase to \$8,238 per child, producing a net federal fiscal benefit of \$7,229. **Table 4** summarizes the underlying cost and savings calculations under both sets of assumptions.

21 Washington State Center for Court Research. (2021). Evaluation of the Washington State Dependent Child Legal Representation Program. Olympia, WA: Administrative Office of the Courts.

22 Zinn, A., & Peters, C. (2015). Expressed-interest legal representation for children in substitute care: Evaluation of the impact of representation on children’s permanency outcomes. *Family Court Review*, 53(4), 589–601. <https://doi.org/10.1111/fcre.12175>

TABLE 4 Cost-Benefit Calculation (per IV-E Eligible Child)

	Palm Beach Scenario	Washington Scenario	
Assumed reduction of time in foster care	16%	30%	
Representation costs per child per year	\$ 2,019	\$ 2,019	
Federal share of representation costs <sup>23</sup>	\$ 1,009	\$ 1,009	
Federal foster care cost per IV-E-eligible child (per day)	\$ 75.23	\$ 75.23	
Federal foster care cost per IV-E-eligible child (per year)	\$ 27,459	\$ 27,459	
Annual IV-E foster care savings from reduced time in care	\$ 4,393	\$ 8,238	
Net annual federal fiscal savings per IV-E-eligible child	\$ 3,384	\$ 7,229	

## AFFECTED POPULATION IN THE 13 STATES

### STEP 5: *Estimating the number of foster children in the U.S. who lack access to legal counsel*

Thirteen states — Alaska, Florida, Hawai‘i, Idaho, Illinois, Indiana, Maine, Minnesota, New Hampshire, North Dakota, South Carolina, Texas, and Washington — do not mandate legal representation of all children in child welfare proceedings. Each of these states approaches the issue differently; in most of the 13 states, at least *some* subset of foster children is guaranteed counsel.

In many of the 13 non-mandatory states, state law requires the court to appoint a guardian ad litem (GAL) or court-appointed special advocate (CASA) for the child but leaves appointment of the child’s attorney to the discretion of the judge. In some of these jurisdictions, the GAL may be an attorney but is not required to be.

Some non-mandatory states limit attorney appointment to children over a certain age or to children deemed able to express their wishes. In Minnesota, for example, the right to counsel is limited to children ten and older and is conditional on the child desiring, and being unable, to employ counsel.<sup>24</sup> In Idaho, appointment of counsel is mandatory for children 12 and older.<sup>25</sup> Washington state is phasing in mandatory appointment for children 8 through 17. The phase-in is structured to reach full coverage by 2032, contingent upon budget and statutory schedule.<sup>26</sup>

Scopes of attorney representation also differ across states. In Texas, an attorney ad litem (AAL) must be appointed for the child immediately after the government files suit requesting termination of parental rights or to be named conservator of a child. After the state becomes the child’s managing conservator (permanent managing conservatorship or PMC), continuing appointment is only mandatory for the lay guardian ad litem or the AAL. Courts in over eighty percent of Texas counties (213 of 254 counties) maintain legal representation of children in PMC.<sup>27</sup>

The specific categories of foster children statutorily entitled to counsel in each state are presented in **Table 5**.

23 Title IV-E 50% administrative federal funding percentage for legal representation

24 Minn. Stat. § 260C.163

25 Idaho Code § 16-1614

26 Washington State Legislature. (2025). Senate Bill 5761: Dependency and termination proceedings — attorneys for children and youth — implementation delay (Chapter 413, Laws of 2025; 69th Leg., 2025 Reg. Sess.). <https://lawfilesexternal.wa.gov/biennium/2025-26/Pdf/Bills/Session%20Laws/Senate/5761.SL.pdf>

27 Texas Indigent Defense Commission

**TABLE 5 Categories of Foster Children Statutorily Entitled to Counsel in States with Limited and/or Discretionary Representation**

State	State Access to Counsel Provisions
Alaska	Ages 10+ when one or more specific triggers is present: (1) non-consent to psychotropic medication or psychiatric hospitalization; (2) objection to psychotherapy-record disclosure; (3) emergency protective custody; or (4) pregnancy/parenting.
Florida	Five “special-needs” categories: (1) skilled-nursing placement; (2) psychotropics with non-assent; (3) placement/consideration for residential treatment; (4) developmental disability; (5) human-trafficking victim.
Hawai‘i	No categorical mandatory-counsel population among foster children, but courts may appoint an attorney when advisable
Idaho	Ages 12+
Illinois	Counsel is not required, if CASA is appointed and represented by counsel.
Indiana	No categorical mandatory-counsel population among foster children
Maine	No categorical mandatory-counsel population among foster children, however either the child or the GAL may request counsel
Minnesota	Age 10+ who request counsel; agencies must inform children 10 and older of this right
New Hampshire	When the child’s expressed interests conflict with the GAL’s recommendation, and, effective January 1, 2026, all foster children placed in group homes, child-care institutions, or state-operated residential treatment programs.
North Dakota	If the child is of sufficient age/competency
South Carolina	No categorical mandatory-counsel population among foster children
Texas	Representation is mandatory for all children at initiation of proceedings but discretionary for counties after permanent managing conservatorship (PMC) is established.
Washington	Mandatory counsel for children 8 through 17 had been implemented in 20 of 39 counties, representing 32% of the state’s population as of October 2025. Ten additional counties are expected to implement in 2026, with full implementation anticipated by FY 2032. For children under 8, counsel is mandatory once a termination of parental rights (TPR) petition is filed.

To isolate just those cases that would benefit from a policy requiring counsel for all foster children, the estimated number of foster children already receiving representation was subtracted from total number of foster children in each state. When available, the actual number of children with counsel was used. When actuals were not available, the number of children receiving representation was estimated using the information in **Table 5**.

As of September 30, 2024, 85,710 children in the 13 states were in out-of-home placements, typically foster care.<sup>28</sup> Approximately 29,999 (35%) of these children are Title IV-E-eligible. **Table 6** shows the number of foster children in each of the 13 states who are estimated, for purposes of this analysis, to be receiving legal representation under current law and the population of IV-E-eligible children who remain unrepresented and would therefore benefit from access to counsel.

28 U.S. Department of Health & Human Services, Administration for Children and Families, Children’s Bureau. (2025, May 1). Adoption and Foster Care Analysis and Reporting System (AFCARS): Data & research [Web page]. <https://acf.gov/cb/research-data-technology/statistics-research/afcars>

TABLE 6 Estimating the Number of Unrepresented IV-E Eligible Foster Children

Jurisdiction	Foster Children		
	A Total Foster Children <sup>29</sup>	B Represented	Unrepresented IV-E- Eligible Children (A minus B)*35%
Alaska <sup>30</sup>	2,375	630	611
Florida <sup>31</sup>	17,198	2,982	4976
Hawai'i <sup>32</sup>	949	285	232
Idaho <sup>33</sup>	1,291	431	301
Illinois <sup>34</sup>	18,524	15,745	973
Indiana <sup>35</sup>	11,912	0	4169
Maine <sup>36</sup>	2,435	2,335	35
Minnesota <sup>37</sup>	5,848	1,404	1555
New Hampshire <sup>38</sup>	1,161	306	299
North Dakota <sup>39</sup>	1,158	36	393
South Carolina <sup>40</sup>	3,328	0	1165
Texas <sup>41</sup>	14,740	4,717	3508
Washington <sup>42</sup>	4,791	544	1486
<b>Total</b>	<b>85,710</b>	<b>28,336</b>	<b>20,081</b>

Based on the data in Table 6, roughly 67 percent (57,374) of foster children in 13 states are without legal representation. Multiplying this number by 35 percent, the approximate share of foster children in the 13 states that are IV-E-eligible, yields 20,081, a rough estimate of the universe of children for whom federally-reimbursable legal representation would be provided if a federal access to counsel statute was implemented.

29 Source for caseloads for all states except Washington: AFCARS Retrieved from [https://tableau-public.acf.gov/views/afcars\\_dashboard\\_main\\_page/in-care-overview?%3Aembed=y&%3AisGuestRedirectFromVizportal=y](https://tableau-public.acf.gov/views/afcars_dashboard_main_page/in-care-overview?%3Aembed=y&%3AisGuestRedirectFromVizportal=y); Washington retrieved from <https://dcyf.wa.gov/news/washington-reduces-number-children-out-home-care-nearly-half>.

30 As reported by the Alaska Office of Public Advocacy regarding number of youth appointed attorneys under mandatory appointment policy. Some youth may also be appointed guardian ad litem attorneys, but the statute permits non-attorneys to serve in this role.

31 Florida DCF Children's Legal Services (2025, May)

32 Roughly 30% of children in care have legal counsel in any given year; see Hawai'i Judiciary. (2023). "Request for Proposals J23250 — Legal Representation for Children in CWS Cases." Honolulu: State of Hawai'i Judiciary, pp. 3–5. Retrieved from <https://hands.eHawai'i.gov/hands/opportunities/opportunity-details/22907>.

33 33.4% of Idaho foster children were 12+ in 2023. See: <https://cwoutcomes.acf.hhs.gov/cwodatasite/inCareOctoberOne/index/>.

34 Most local courts require appointment of a GAL attorney, however an estimated 15% of foster children reside in jurisdictions that permit non-attorney GALs (who are themselves represented by an attorney). See: <https://www.ilga.gov/documents/reports/ReportsSubmitted/3773RSGAEmail7629RSGAAttachCAC%20CASA%20Task%20Force%20Final%20Report.pdf>.

35 No categorical mandatory-counsel population among foster children.

36 Estimate based on the approximate number of children served by non-attorney CASA GALs only.

37 48% of Minnesota foster children were 10+ in 2023. See: <https://cwoutcomes.acf.hhs.gov/cwodatasite/inCareOctoberOne/index/>. Estimate assumes 50% request counsel.

38 As of 7/1/2023, 306 NH foster children were in residential placements. See: Concord Monitor. (2024, August 26). Sununu signs reforms for out-of-state youth placements. <https://www.concordmonitor.com/2024/08/26/sununu-signs-reforms-for-out-of-state-youth-placements-56703891>

39 As reported by the North Dakota Court Improvement Program (2025).

40 No categorical mandatory-counsel population among foster children.

41 43 of Texas' 254 counties, representing 32% of the state's population do not report extending representation post PMC.

42 Washington in phasing in right to counsel for foster children ages 8–17 over an 11-year period, with full implementation expected by 2032. 35.5% of WA foster children were ages 8–17 in 2023. As of FY 2025, 20 of 39 WA counties representing 32% of the state's population had implemented. The estimate is therefore based on the assumption that 11.4% of WA foster children are currently represented.

## TEN-YEAR FEDERAL BUDGET IMPACT

**STEP 6: Net federal cost of mandatory counsel**

Legal representation for the 20,081 Title IV-E-eligible children identified in Table 6 would produce between \$67.96 million and \$145.16 million in annual savings to the federal government at full implementation. Table 7 shows the net fiscal impact over ten years, assuming a four-year phase in.

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Cases	2,008	6,024	12,049	20,081	20,081	20,081	20,081	20,081	20,081	20,081
Costs	\$2.03	\$6.08	\$12.16	\$20.26	\$20.26	\$20.26	\$20.26	\$20.26	\$20.26	\$20.26
Savings	\$8.82– \$16.54	\$26.47– \$49.63	\$52.93– \$99.25	\$88.22– \$165.42						
Net Savings	\$6.8– \$14.52	\$20.39– \$43.55	\$40.78– \$87.10	\$67.96– \$145.16						

# Limitations

This fiscal impact estimate is intended to provide a transparent basis for decision-making. Results are sensitive to several parameters and real-world implementation conditions. Limitations include:

*Parent counsel not included.* This analysis focuses on legal representation of foster children. Research has also documented significant benefits, including increased reunification and decreased time in care, when parents have access to legal representation.<sup>43</sup> Most states provide representation to parents in child welfare proceedings. However, as with children's representation, approaches to parent representation differ across, and sometimes within, states.<sup>44</sup> State-level data on parent representation have yet to be compiled in a systematic fashion, making it difficult to estimate the number of unrepresented parents and thus of the cost savings of legal representation.

*Federal child welfare savings outside Title IV-E not counted.* Although Title IV-E is the single largest source of federal foster care funding, other sources include Title IV-B, Temporary Assistance for Needy Families, Social Services Block Grant, and Medicaid.<sup>45</sup> Savings to these programs are not estimated.

*Long term cost savings not modeled.* Foster care placement has been shown to generate high long-term social costs that manifest across multiple public systems including, but not limited to, health care, education, justice, and social services, that are financed and administered by federal, state, and local governments. The analysis does not model potential downstream effects.

*Effect-size uncertainty.* This analysis assumes that access to legal counsel will reduce time in care by between 16 and 30 percent. Actual impacts may be larger or smaller depending on local practice, timing of appointment, and quality and continuity of representation.

*Average versus marginal foster care costs.* The estimate applies an average federal cost per child-day in care. In practice, not all components of foster care spending vary proportionally with days in care, particularly in the short run (e.g., administrative or contracted expenses). If a meaningful share of spending is fixed over the budget window, marginal savings from reducing length of stay could be lower than implied by an average per-day figure.

*IV-E eligibility uncertainty and heterogeneity.* The analysis applies a uniform IV-E eligibility share for purposes of translating total caseload into federal-eligible exposure. IV-E eligibility varies by placement type and child characteristics, and it may change over time due to shifts in policy and case mix.

*Implementation and ramp-up risk.* The modeled phase-in assumes relatively smooth adoption to legal representation during the ramp-up period. In reality, implementation may be uneven due to factors such as workforce constraints (attorney supply, training, supervision capacity), procurement timelines, need for state legislation, and budget availability. Uneven ramp-up can delay savings relative to costs, particularly in early years, and may produce a slower trajectory to full effect.

43 Examples of this research include: Mark E. Courtney, Jennifer L. Hook, Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes for children in foster care, Children and Youth Services Review, Volume 34, Issue 7, 2012, 1337–1343, <https://doi.org/10.1016/j.childyouth.2012.03.016>; and Washington State Office of Public Defense. (2010). Reunification and case resolution improvements in Office of Public Defense (OPD) Parents Representation Program counties. <https://legalaidresearch.org/wp-content/uploads/2020/01/washington-reunification-and-improvements-parents-representation-2010.pdf>. A literature review through 2019 is available at: <https://familyjusticeinitiative.org/data/research/>.

44 As of 2013, 39 states plus the District of Columbia provided parents a right to counsel in all abuse and neglect proceedings and 44 provided for a categorical right to counsel in termination of parental rights proceedings. See Footnotes 53 and 76 in Pollock, J. (2013). The case against case-by-case: Courts identifying categorical rights to counsel in basic human needs civil cases. Drake Law Review, 61, 763–815. [https://civilrighttocounsel.org/uploaded\\_files/4/The\\_Case\\_Against\\_Case-by-Case\\_Pollock.pdf](https://civilrighttocounsel.org/uploaded_files/4/The_Case_Against_Case-by-Case_Pollock.pdf)

45 Stoltzfus, E. (2025, September 2). Child welfare: Purposes, federal programs, and funding (IF10590). Congressional Research Service. Retrieved from: <https://www.congress.gov/crs-product/IF10590>.

*State and local costs and benefits not included.* This analysis focuses exclusively on federal fiscal impacts and does not account for costs or savings accruing to state or local governments. Roughly half of all child welfare spending is financed by state and local sources.<sup>46</sup> As a result, the estimates presented here likely understate the total fiscal benefits associated with the policy, as potential state and local cost savings are not captured.

Given these limitations, the results are best interpreted as a conservative estimate under the paper's stated assumptions — most importantly, a 16 to 30 percent reduction in time in care attributable to access to counsel. The direction and magnitude of the net fiscal effect depend most strongly on (i) whether the realized reduction in time in care differs substantially from the range used in this analysis, (ii) the extent to which the federal per-day foster care cost decreases in direct proportion to time in care within the budget window, and (iii) IV-E eligibility rates.

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<sup>46</sup> Rosinsky, K., Fischer, M., Haas, M., Ibarra, A., & Williams, S.C. (2025). Child Welfare Financing SFY 2022: A survey of federal, state, and local expenditures. Child Trends. DOI: 10.56417/5123x6901v

# Conclusion

**Requiring access to legal representation for children in child welfare proceedings produces substantial and measurable fiscal benefits for the federal government. Even under conservative assumptions, the savings associated with reduced time in foster care far outweigh the federal share of representation costs.**

For the 13 states that do not currently guarantee representation, full implementation of a federal access to counsel provision would yield savings of between \$67.96 million and \$145.16 million in net annual federal savings, driven by improved permanency outcomes and reduced durations in care.

This analysis has quantified the fiscal effects of the policy change at the federal level. It did not include corresponding state-level impacts, which are likely to be comparable in magnitude or greater. Because foster care costs are jointly financed by federal and state governments, state fiscal effects will mirror and amplify the federal impacts, increasing the overall net benefit of guaranteeing legal representation. As a result, the combined federal-state savings would substantially exceed the federal estimates presented here.

The short-term savings presented here understate the full public value of improved representation. Nevertheless, the fiscal case alone is clear: a federal requirement that all states provide legal counsel in child welfare proceedings would not only advance the well-being of children and families but also generate meaningful and recurring savings for governments at all levels.

**Kelly O'Donnell, PhD**, is an economist with more than 25 years of experience in public policy and fiscal analysis, with a focus on the intersection of public finance, public health, and child welfare systems. She is the principal economist of O'Donnell Economics and Strategy, where she specializes in quantifying the fiscal impacts of prevention and early intervention policies and developing innovative financing strategies for public and private sector clients. Dr. O'Donnell has evaluated the state fiscal impacts of legal representation for foster children in New Mexico and Oklahoma. She has served as a research professor at the University of New Mexico, Research Director at New Mexico Voices for Children, and in senior leadership roles across New Mexico state government, including Director of Tax Policy, Deputy Cabinet Secretary for Economic Development, and Superintendent of the New Mexico Regulation and Licensing Department.