



For Immediate Release

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**First Star Institute & the Children's Advocacy Institute Release Latest Edition of
"A Child's Right to Counsel," a Report on Nationwide Effort to Guarantee
Legal Protections for Children in Abuse and Neglect Cases**

*Findings point to a sustained state trend in requiring quality legal representation for children;
Nearly Half of States Still Fail to Adequately Protect the Legal Rights of Abused/Neglected Children*

WASHINGTON, D.C. -- June 4, 2019 -- First Star Institute and the Children's Advocacy Institute (CAI) today issued the fourth edition of [*A Child's Right to Counsel*](#), a national progress report on the effectiveness of state laws in providing legal presentation to children in abuse and neglect cases. The report finds steady progress among most states to secure quality representation, but nearly two dozen states still put children at risk by not providing adequate legal representation during civil child abuse and neglect proceedings.

In 2006, First Star published the first edition of *A Child's Right to Counsel*, evaluating state laws relating to the legal representation of children in civil child abuse and neglect proceedings. Since then, as detailed in the Results and Analysis section of this report, state grades have steadily increased, with 31 states showing improvement between 2009 and 2018. Currently, a record 19 states receive a grade of "A". Unfortunately, many states continue to have statutes that do not provide the kind of legal representation that can lead to better outcomes, more quickly, for children in dependency cases. In the current edition, 11 states fall far short and received "D" or "F" grades, and another 11 "C" and 10 "B" states have statutes that better provide counsel, but still fall short.

"Attorneys are essential to protecting our basic constitutional privileges," said Noy Davis, First Star Institute. "When we issued our first report in 2006, only 35 states required legal representation for children involved in dependency court and foster care proceedings. We're happy to see a sustained trend recognizing that the legal representation of these children, parents and agencies not only helps to protect the legal rights of all parties, but helps create better outcomes for children."

The report's principal findings indicate that states increasingly are providing independent legal representation to children in child abuse and neglect cases, and are providing this counsel through appeals; are providing party status to children in these cases, and are holding children's attorneys to professional responsibility standards of confidentiality and liability. The report proposes continued improvement in the representation of these children, particularly by the 22 "C", "D" and "F" graded states. All states are encouraged to make use of recent federal policy changes that allow federal funds to cover up to 50% of the cost of this legal representation.

The report was released at a Capitol Hill briefing hosted by the Congressional Caucus on Foster Youth, the Senate Caucus on Foster Youth, the Congressional Caucus on Crime Prevention and Youth Development, and the Congressional Access to Legal Aid Caucus.

“We hope all states will make use of the newly available federal support to even the playing field and help courts achieve better outcomes for abused and neglected children,” said Amy Harfeld, CAI National Policy Director. “Going forward, federal legislators can look to ensure that no child faces placement in state custody, aka foster care, without a statutory right to legal representation to protect their rights and amplify their voice.”

State grades since 2006 have steadily increased, with 30 states showing improvement between 2009 and 2018 on the right to counsel in child abuse and neglect proceedings.

States receiving an “A” grade: Massachusetts, Connecticut, Louisiana, Oklahoma, New York, West Virginia, Georgia, Mississippi, Nevada, Nebraska, New Mexico, District of Columbia, Maryland, Missouri, Kansas, Michigan, Texas, Iowa, and Vermont.

States receiving a “B” grade: Tennessee, Delaware, New Jersey, Ohio, Pennsylvania, Virginia, Wyoming, Arkansas, North Carolina and California.

States receiving a “C” grade: Utah, Kentucky, Alabama, Oregon, Colorado, South Dakota, Minnesota, Arizona, Rhode Island, Florida and Wisconsin.

States receiving a “D” grade: Alaska, Illinois, Maine, North Dakota, South Carolina, and Washington.

States receiving an “F” grade: Hawaii, Idaho, Indiana, Montana and New Hampshire.

“First Star Institute and CAI applaud the 19 states who earned A’s this year and who recognize the importance of ensuring that all children have appropriate legal counsel in dependency proceedings,” said Elissa Garr, First Star Institute’s President. “We strongly encourage the states who did not fare well in our analysis to make use of the newly available federal funds to better protect children in abuse and neglect proceedings.”

In 2017, 3.5 million children received an investigation or alternative response for child abuse or neglect, and 674,000 were deemed to be victims of abuse and neglect at the hands of their parents or guardians, according to the US Department of Health and Human Services data. An estimated 1,720 children died in 2017 due to child maltreatment.

Those who survive abuse and neglect without being able to return home or get adopted often “age out” of the foster care system unemployed, homeless, and at high-risk of experiencing mental health problems, incarceration, and other costly and traumatic adverse outcomes. Only three percent of former foster children make it through college with a bachelor’s degree.

[Read or download the entire report here.](#) (Individual state grades can be found on pages 24-26.)

HIGHLIGHTS OF FINDINGS ON STATE STATUTES ON THE REPRESENTATION OF CHILDREN IN CIVIL ABUSE AND NEGLECT PROCEEDINGS (includes D.C.)

1. More than half of the states -- 29 - are now A or B grade states (19 A and 10 B). This compares with 22 A and B in 2008.
2. 11 states are now D or F states (6 D and 5 F states). This compares with 15 in 2008.
3. Eleven states are now C states. This compares with 14 in 2008.
4. Most states (34 of 51 or 66%) have statutes that require independent counsel for children in all of

these proceedings, but only 15 of those require client-directed counsel under all reasonable circumstances.

5. Seven states have statutes that provide counsel for children only on a discretionary basis, with another 14% providing this representation with major restrictions.
6. When an attorney is appointed for a child in these proceedings, most state statutes (76%) provide that the attorney is appointed for all phases of the case, including appeal.
7. A slim majority of states now want to at least hear the child's views (54%) although only a third of all states require client-directed child representation in these proceedings.
8. Most states (76%) give the child all the rights of a party in child abuse and neglect proceedings.
9. The Rules of Professional Responsibility apply to attorneys in all states, but in 4% there is a statutory blanket immunity, and another 14% provide immunity for ordinary negligence.
10. While states reported that caseload standards were required in practice in a number of locales, our statutory review indicated that only 10% set a specified caseload standard, with another 12% acknowledging that a child's attorney needs to comply with reasonable caseload limits.
11. Analysis of grading from all editions of *A Child's Right to Counsel* report cards indicates that states increasingly are providing independent representation to children in child abuse and neglect cases, and are providing this counsel through appeals; are providing party status to children in these cases, are holding children's attorneys to professional responsibility standards of confidentiality and liability.

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[First Star Institute](#) was created as a national 501(c)(3) public charity following a reorganization of First Star and continues the policy advocacy and publications, such as this Right to Counsel Report to improve the lives of abused and neglected children.

We envision a world where all children have the supports they need to grow up to lead happy and productive lives. We pursue our mission through research, public engagement, policy advocacy, education and litigation.

We work towards a day when all systems entrusted with the care and protection of neglected and abused children nurture and fuel these children to heal and thrive. We work in coalition and in partnership with others to pursue a better world for these children and youth. We believe that these youth have insights no other person has. Individually, they must be able to have a voice in their own lives. Collectively, we believe foster youth and former foster youth will provide the knowledge and leadership to bring these systems forward. We are proud to build collaborations with those who have experienced abuse, neglect and foster care as well as other experts whose work is grounded in data, child development, education, and an understanding of our existing legal and social service systems. Visit www.firststarinstitute.org.

The [Children's Advocacy Institute](#), founded at the nonprofit University of San Diego (USD) School of Law in 1989, is one of the nation's premiere academic, research, and advocacy organizations working to improve the health, safety, and well-being of children and youth, with special emphasis on reforming the child protection and foster care systems and improving outcomes for youth aging out of foster care and other at-risk youth.

In its academic component, CAI trains USD Law students to effectively advocate on behalf of children and youth. Conducted through offices in San Diego, Sacramento, and Washington, D.C., CAI's research and advocacy component leverages change for children and youth at the federal and state levels through impact litigation, legislative and regulatory advocacy, and public education.

CAI's mission is to ensure that children's interests are represented effectively whenever and wherever government makes policy and budget decisions that will impact them. Visit www.caichildlaw.org.