



# Civil Legal Aid Helps Keep Families Together and Out of the Child Welfare System



The U.S. Department of Health and Human Services, Administration for Children and Families (HHS ACF) reports there are approximately 437,000 children in foster care on any day in the U.S.<sup>1</sup> Children who spend time in the foster care system experience higher risk of mental and physical health problems including learning disabilities, developmental delays, depression and behavioral issues, asthma, and obesity than children who have not been in foster care.<sup>2</sup>

When legal aid can address families' unresolved legal problems (such as housing insecurity, barriers to employment, access to public benefits, and family law issues), it increases the chance of **preventing children from entering the child welfare system** in the first place. Legal representation during child welfare proceedings can help stabilize lives, improving odds of permanency and reunification with parents or expediting adoption and guardianship when reunification is not possible.

## LEGAL AID HELPS...

### Children sometimes enter foster care due to unresolved legal issues, like housing instability or abuse.

When a family receives legal representation before child protective services involvement – like at an eviction hearing – the family can remain housed and children can stay in school to avoid other negative effects of dislocation.<sup>3</sup> Similarly, when parents find themselves unable to care for their children due to mental health issues, financial hardship, incarceration, or substance use disorder, legal help to appoint relative caregivers can prevent the children from entering traditional foster care.

Civil legal aid can also help children already in the foster care system by providing representation for children and their parents. Legal aid programs have partnered with local courts, bar associations, and schools to provide legal help, resulting in faster reunifications and greater parental engagement.<sup>4</sup>



Studies also suggest that states can save money by providing parents and children involved in the child welfare system with legal representation.<sup>5</sup> For example:

- A study of a parent representation pilot program in Travis County, Texas found that **when parents were represented, children were significantly more likely to experience permanent outcomes** and that “a lack of legal representation is placing parents at a disadvantage with regard to having their children returned to them.”<sup>6</sup>
- Among children who entered court-supervised care for the first time in over three years in Washington State, researchers found that when parents had legal representation, children exited foster care at a rate 11 percent higher than parents who did not have representation. **Representation also resulted in children moving to permanent placements more quickly**, speeding their paths to reunification, adoption, or legal guardianship.<sup>7</sup>

## FEDERAL SUPPORT FOR CHILD AND PARENT REPRESENTATION

As HHS ACF states in a 2017 memo, “There is evidence to support that legal representation for children, parents and youth contributes to or is associated with:

- increases in party perceptions of fairness;
- increases in party engagement in case planning, services and court hearings;
- more personally tailored and specific case plans and services;
- increases in visitation and parenting time;
- expedited permanency; and
- cost savings to state government due to reductions of time children and youth spend in care.”<sup>8</sup>

## THE NEED IS GREAT

According to HHS ACF, of the child protective cases which result in a child's removal from the home are related to: neglect (62%), parental drug abuse (36%), physical abuse (13%), housing (10%), and sexual abuse (4%).<sup>9</sup>

Children placed in foster care who had scored within a normal range on behavioral, social, and emotional questionnaires at the beginning of their foster care stay often scored poorly after.<sup>4</sup>

When removed from their homes, children and youth are often confused about what is happening and this uncertainty can also be a source of trauma.<sup>10</sup>

Children placed in foster care are more likely to experience "emotional and behavioral deficits, brain and neurobiological impairment, and poor social relationships with parents and peers."<sup>11</sup>



### SPOTLIGHT: KANSAS LEGAL SERVICES KIN-TECH PROGRAM

On October 1, 2019, Kansas Governor Laura Kelly and Secretary of the Department for Children and Families Laura Howard announced that Kansas Legal Services is one of 18 recipients of Family First Prevention Services Act (FFPSA) grants through June 2020. The grants, totaling \$13 million, are aimed at implementing evidence-based prevention programs to reduce the number of children entering foster care, and prevent foster care placements for those at risk. Kansas Legal Services will provide legal assistance in adoption and guardianships for kinship caregivers of children at risk of entering the child welfare system.<sup>12</sup>

## LEGAL AID HELPS TWINS ESCAPE ABUSIVE HOME

The second time law enforcement found twin brothers "Alan" and "Brody" in the streets of Las Vegas at 2 a.m., the nine year olds were removed from their father's home. The young brothers had visible bruises on them when they told law enforcement they were trying to make their way to their mother's home. The boys then had a harrowing journey while they were in the child welfare system, moving back and forth from the county shelter and multiple foster home placements. All they wanted was to live with their mother.

When the court appointed "Derek", an attorney with Legal Aid Center of Southern Nevada's Children's Attorneys Project, to represent the boys, the boys hardly made eye contact and barely spoke. In court, their father's attorney argued the mother was unfit but Derek made the case that Alan and Brody strongly preferred to live permanently with their mother and that it was a safe and loving place for the boys. The court agreed. When Derek called the boys after they settled into their new home, he reported hearing the smiles in his clients' voices coming through the phone. The boys were finally safe and happy.

## FUNDING OPPORTUNITIES

Several federal grants can fund legal aid organizations to provide representation to children and their parents when families are at risk of entering or are already in the child welfare system. Examples of federal agency grants that have supported legal aid in these situations include U.S. Department of Justice (DOJ), Office on Violence Against Women's Justice For Families Program<sup>13</sup> and DOJ Office for Victims of Crime's Enhancing Community Responses to the Opioid Crisis.<sup>14</sup> Additional information on grant opportunities for legal services can be found in the Justice in Government Project's Toolkit<sup>15</sup> on NLADA's LegalAidResources.org.

The leading federal funding source is Title IV-E of the Social Security Act, thanks to two recent policy clarifications that allow states to claim as administrative costs the costs for legal representation for children and parents in child welfare cases, as well as overhead costs and support staff, paralegals, investigators, peer partners, or social workers that support attorneys providing representation.<sup>16</sup> For more information on these policy clarifications, see the National Association of Counsel for Children's (NACC) hub of Title IV-E background materials.<sup>17</sup> The Family First Prevention Services Act of February 2018 also authorizes states to use Title IV-B and E funds to provide enhanced support to children and families through kinship navigator programs.<sup>18</sup> Additional examples of state-administered federal block grants that allow legal aid for children and/or parents or caregivers include Victims of Crime Act (VOCA) Victim Assistance Formula Grants and Temporary Assistance for Needy Families (TANF).

For more information about using federal funds to represent parents and children in child welfare proceedings, contact NLADA at [resourcedesk@nlada.org](mailto:resourcedesk@nlada.org).

### Endnotes

1. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, The AFCARS Report (August 22, 2019).
2. <https://www.sciencedaily.com/releases/2016/10/161017084248.htm>
3. Vivek Sankaran & Martha L. Raimon, Case Closed: Addressing Unmet Legal Needs & Stabilizing Families, Ctr. for the Study of Soc. Pol'y (2014).
4. Steve M. Wood, Alicia Summers & Crystal Soderman Duarte, Legal Representation in the Juvenile Dependency System: Travis County, Texas' Parent Representation Pilot Project, 54 Family Court Review 277 (2016) at 286.
5. See Detroit Center for Family Advocacy, Promoting Safe and Stable Families (2014); and Vivek Sankaran, Using Preventative Legal Advocacy to Keep Children from Entering Foster Care (2014).
6. Supra note 4.
7. 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, 34 Child & Youth Services Rev. 1137 (2012).
8. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf> See also: <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2102.pdf>
9. Supra note 1 at 2.
10. Rae R. Newton et al., Children and Youth in Foster Care: Disentangling the Relationship between Problem Behaviors and Number of Placements, 24 Child Abuse & Neglect 1363 (2000).
11. L. D. Leve et al., Practitioner Review: Children in Foster Care—Vulnerabilities and Evidence-Based Interventions That Promote Resilience Processes, 53 J. Child Psychol. & Psychiatry 1197 (2012).
12. <https://www.kansaslegalservices.org/node/kansas-kin-tech>
13. <https://www.justice.gov/ovw/page/file/1107871/download>
14. [https://www.ovc.gov/grants/pdf/txt/Opioids\\_FY-2019-CompetitiveSolicitation.pdf](https://www.ovc.gov/grants/pdf/txt/Opioids_FY-2019-CompetitiveSolicitation.pdf)
15. <https://www.american.edu/spa/jpo/toolkit/>
16. <https://www.naccchildlaw.org/page/TitleIVforLegalRepresentation>
17. Ibid.
18. See <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1802.pdf>