

The Guardian

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ADVOCACY FOR INFANTS AND TODDLERS:

The Urgency of a Trauma- and Developmentally-Informed Approach

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EDITOR'S NOTE: This is the second piece in a two-part series addressing representation of infants and very young children and the importance of effective, holistic advocacy from the start — including supportive strategies and considerations in cases where parents have experienced trauma themselves. Please see the November 2019 issue of [The Guardian](#) to read the first article, *Representing Very Young Children in Child Welfare Proceedings*.

Nurturing relationships are essential to the very young child's healthy development and are the context in which infants and toddlers heal from the trauma of neglect, abuse, exposure to domestic violence, separation, and loss. Children's attorneys and guardians *ad litem* (GALs) play a critical role assuring that infants and toddlers are in caregiving environments that support the very young child's developmental need for nurturing, loving interactions. Advocates representing infants and toddlers play an equally critical role ensuring the child welfare agency provides reasonable efforts to prevent removal or, if the child has been placed out of the home, finalizing another permanency plan with the preferred goal of reunification. By collaborating on the systems level while also seeking case-specific opportunities to strengthen and repair the parent-child relationship, such as frequent and meaningful parent-



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child visits, child advocates can support parent engagement that promotes child developmental health and well-being.

This article builds on *Representing Very Young Children in Child Welfare Proceedings*, which discussed high-quality representation of infants and toddlers. This article takes a closer look at trauma as it affects infants and toddlers in the child welfare system and the implications for advocacy, specifically:

- how lifelong trauma and adversity impacts parents' thinking and behavior, which can impede their engagement in the case process;
- how to repair and strengthen the parent-child relationship; and
- strategies advocates can use to support resilience and healing in very young children affected by trauma.

Trauma: Prevalence and Impact on Infants and Toddlers in the Child Welfare System

Infants and toddlers in child abuse and neglect cases have endured experiences that can cause intense and overwhelming fear, terror, and helplessness.¹ Such intense distress, which overwhelms the very young child who lacks the cognitive or emotional capacity to cope, is referred to as *traumatic stress*.² There are many sources of traumatic stress for this population, and these potentially traumatic exposures are interrelated and often overlap. Disrupted caregiver-child relationships in the form of abrupt removals from the home, repeated reunions with and separations from the parent during visitation without supports to ease transitions, and multiple placement changes can be potentially traumatic.

Neglect, which is strongly tied to family poverty and related adversities, such as homelessness and food insecurity, is another source of traumatic stress. Infants and toddlers depend on adults for nourishment, comfort, and safety; when these basic needs are not met or are met unpredictably, the very young child experiences acute distress and helplessness.

More than 68% of infants enter foster care due to neglect.³ Neglect is highly correlated with parental alcohol or drug use, which in turn is associated with erratic caregiver behavior and often severe drug-related violence in the home.⁴ Neglect puts very young children at risk for accidents and unaddressed medical problems that can be traumatizing or lead to potentially traumatizing medical procedures. Domestic violence is another source of traumatic stress for very young children in the child welfare system. The most recent data from state child welfare systems show that 27% of children with substantiated or indicated maltreatment had

1 C. Cohen, & J. Osofsky, "A Judicial Perspective on Exposure to Violence and Trauma," in *Violence and Trauma in the Lives of Children: A Two Volume Handbook* (Joy D. Osofsky & Betsy McAlister-Groves eds., ABC-CLIO, LLC, 2018).

2 Alicia Lieberman et al., "Trauma in Early Childhood: Empirical Evidence and Clinical Implications," 23 *Developmental Psychopathology* 397-410 (2011).

3 S.C. William, & K. Sepulveda, *Infants and Toddlers are More Likely Than Older Children to Enter Foster Care Because of Neglect and Parental Drug Abuse* (Child Trends, 2019). Available at <https://www.childtrends.org/infants-and-toddlers-are-more-likely-than-older-children-to-enter-foster-care-because-of-neglect-and-parental-drug-abuse>.

4 K.D. Seay & P.L. Kohl, "Caregiver Substance Abuse and Children's Exposure to Violence in a Nationally Representative Child Welfare Sample," 13 *Journal of Social Work Practice in the Addictions* 70-90 (2013).

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domestic violence as a caregiver risk factor,⁵ however experts agree this figure is likely a significant undercount due to fear of disclosure.⁶

Trauma can impede a child's healthy development through several paths. The first pathway is through disruption in the child-parent relationship. A developmental milestone during infancy and the toddler years is learning to trust the world is safe — because it is only when a child feels safe that he or she can explore, learn, and form healthy relationships with adult caregivers and other children. Referred to as the *attachment* relationship, the earliest caregiver-child relationship is the incubator for a child's developing a sense of safety and security. This developmental milestone occurs in the context of a strong, positive relationship between the young child and his or her primary caregiver. Infants and toddlers depend on trusted adults to help them manage strong emotions that can be overwhelming and, over time, learn behavioral control.⁷ When caregiving is unpredictable, neglectful, or physically abusive, or when young children are exposed to violence, it violates the infant's basic developmental need to feel safe and trust that adults are sources of safety and protection.

By the time a child is two years old, 100 trillion connections between neurons have formed.

A second pathway through which traumatic stress exerts a negative impact on development is the “flight, fight, or freeze” stress response, which creates a cascade of physiological reactions including elevated stress hormones. In the absence of a caregiver who acts as a protective shield, buffering the child in the face of stressful situations, the very young child's stress response remains chronically elevated. This unremittingly activated stress response can become toxic as it causes ‘wear and tear’ on the brain and body. It also diverts psychological, cognitive and emotional ‘energy’ away from healthy growth and development towards the narrowed survival mode of self-protection in the face of threats and harm.⁸

A third pathway involves early brain development. Advanced neuroimaging technologies have shown how brain growth in infancy and early childhood proceeds at an exponential pace. By the time a child is two years old, 100 trillion connections between neurons have formed. This multitude of neural circuits represents the emergent architecture of the brain. Neuroscience has also shown how this architecture is shaped through a ‘use it or lose it’ process in which early environmental input reinforces brain circuits or, in the absence or inconsistency of environmental inputs, brain circuits are ‘pruned back’ (i.e., discarded).⁹

What and where do these environmental inputs come from? Abundant research in the social sciences that complements the groundbreaking discoveries of neuroscience shows how consistent, nurturing, responsive interactions with a primary caregiver provides the input — language, concepts, and social and sensory experiences — that build a healthy brain. These

5 U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. *Child Maltreatment 2017* (2019). Available at <https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

6 Cecilia Casanueva et al., *NSCAW Child Well-Being Spotlight: Parents Reported for Maltreatment Experience High Rates of Domestic Violence*, OPRE Report #2013-04 (Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2013). Available at https://www.acf.hhs.gov/sites/default/files/opre/parents_in_home_v2.pdf.

7 Center on the Developing Child at Harvard University, *In Brief: The Science of Early Childhood Development*, undated. Available at <https://developingchild.harvard.edu/resources/inbrief-science-of-ecd/>.

8 U.S. Department of Health and Human Services, Children's Bureau, *Understanding the Effects of Maltreatment on Brain Development* (2015). Available at <https://www.childwelfare.gov/pubs/issue-briefs/brain-development>.

9 *Id.*

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early interactions of comfort and nurturance are also critical in building emotional health and resilience in very young children, as it is through these interactions that children develop the capacity to regulate strong emotions and cope with challenges.¹⁰

Awareness of the extent of traumatic stress that very young children in child abuse and neglect cases have likely experienced and the crucial nature of the first three years of life in laying a strong foundation for healthy development creates a sense of urgency. This urgency can be translated into case planning and advocacy by intensively focusing on ways to support stable, nurturing, and responsive caregiving relationships.¹¹

Viewing Parent Behavior Through a Trauma Lens

Parents in child welfare proceedings often have histories of traumatic experiences and serious adversities that can negatively affect their thinking and behavior and create barriers to reunification. When a child is removed from the home, parents enter the child welfare and dependency court process from a starting place of intense grief, distress, profound helplessness, and fear about what will happen to the child and to him or herself. For many parents, this traumatic experience adds to a long history of trauma, beginning in childhood.¹² In one recent study, 63% of parents of very young children (age birth to three) in foster care had experienced *four or more types* of trauma during childhood, including physical abuse, sexual abuse, emotional or psychological abuse, physical and emotional neglect, parental loss due to abandonment, incarceration, and/or witnessing domestic violence.¹³ This trauma exposure in childhood is nearly five times what adults in the general population report.¹⁴ Research on long-term outcomes associated with early trauma shows adults with five or more such adverse childhood experiences (ACEs) are 7-10 times more likely to suffer from problem use of illegal or unprescribed drugs,¹⁵ three times more likely to be victims of domestic violence as an adult,¹⁶ and two times more likely to experience a teen pregnancy.¹⁷ High ACEs are also associated with higher rates of depression, anxiety, and binge and heavy drinking as well as alcohol use disorders.¹⁸ Thus, the circumstances resulting in a child's removal commonly trace back to early trauma that has negatively affected a parent's life trajectory.

10 National Scientific Council on the Developing Child, *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper No. 13* (2015). Available at <https://developingchild.harvard.edu/resources/supportive-relationships-and-active-skill-building-strengthen-the-foundations-of-resilience/>.

11 National Scientific Council on the Developing Child, *Applying the Science of Child Development in Child Welfare Systems* (2016). Available at <http://developingchild.harvard.edu/resources/child-welfare-systems/>; U.S. Department of Health and Human Services, Children's Bureau, *Supporting Brain Development in Traumatized Children and Youth* (2017).

12 J.M. Osofsky, M. Lewis & J. Szrom, *The Adverse Childhood Experiences of Very Young Children and Their Parents Involved in Infant-Toddler Court Teams*, undated. Available at <http://www.qicct.org/sites/default/files/ACES%20Policy%20Brief%20v4%20%28003%29.pdf>; C.M. Chemtob et al., "Screening for Trauma Exposure and Posttraumatic Stress Disorder and Depression Symptoms among Mothers Receiving Child Welfare Preventative Services," 90 *Child Welfare* 109-127 (2011); Cheryl Smithgall et al., *Parents' Pasts and Families' Futures: Using Family Assessments to Inform Perspective on Reasonable Efforts and Reunification* (Chapin Hall at the University of Chicago, 2012). Available at https://rhyclearinghouse.acf.hhs.gov/sites/default/files/docs/21235-Parents_Pasts_and_Families.pdf.

13 See Osofsky et al., supra note 12.

14 Vincent J. Felitti et al., "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults," 14 *American Journal of Preventive Medicine* 245-258 (1998).

15 Shanta R. Dube et al., "Childhood Abuse, Neglect, and Household Dysfunction and the Risk of Illicit Drug Use: The Adverse Childhood Experiences Study," 111 *Pediatrics* 564-572 (2003).

16 Charles L. Whitfield et al., "Violent Childhood Experiences and the Risk of Intimate Partner Violence in Adults: Assessment in a Large Health Maintenance Organization," 18 *Journal of Interpersonal Violence* 166-185 (2003).

17 Susan D. Hillis et al., "The Association Between Adverse Childhood Experiences and Adolescent Pregnancy, Long-Term Psychosocial Outcomes, and Fetal Death," 113 *Pediatrics* 320-327 (2004).

18 Tara W. Strine et al., "Associations Between Adverse Childhood Experiences, Psychological Distress, and Adult Alcohol Problems," 36 *American Journal of Health Behavior* 408-423 (2012).

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For African American and Hispanic families, disproportionately higher rates of investigation following reports and other inequities associated with racial bias can aggravate racial trauma they have experienced in their own lives and historical racial trauma that communities of color have suffered across generations.¹⁹ Awareness of potential trauma ‘icebergs’ that may be hidden beneath the surface of parents’ behavior, and knowing how trauma can manifest in difficult behaviors, helps professionals strategize about how best to engage parents in case planning and meeting case goals.²⁰ An overview of the link between trauma and behaviors is provided in the table below.

How Trauma Can Affect Parents’ Thinking and Behavior²¹

What behaviors do you see?	How is it related to trauma?
Puts themselves or their child in risky situation; misses visits, court dates, and appointments; and has difficulty completing the case plan	Difficulty with Decision-Making and Judgement: Trauma negatively affects the parts of the brain involved with planning, evaluating situations, thoughtful decision-making, and problem-solving.
Misses visits, court dates, case conferences, appointments with the child	Re-Experiencing Trauma – Avoidance: People with trauma histories may re-experience past traumas when “triggered” by memories. They may avoid places and people who remind them of traumatic experiences and places that feel unsafe.
Appears disinterested in reunification efforts, seems “checked out,” is uncooperative, relapses	Re-Experiencing Trauma – Disconnecting: Trauma can cause people to disconnect from strong negative emotions and to disengage from triggering experiences.
Appears “on guard” and on edge, agitated, or impulsive; overreacts, displays angry outbursts, confronts others	Hyperarousal: Trauma can impair the body’s stress system so it is on constant high alert. This causes people to overreact to even ordinary stress and to be overly focused on threats in the present.
Has difficulty in relationships with attorney, service providers, foster parent; is uncooperative; pushes helpers away	Negative Self-Concept and Difficulty with Trust: People who experienced abuse and neglect in childhood commonly internalize the way they have been treated by others, experiencing strong feelings of shame and viewing themselves as “damaged goods.”
Displays resistant behavior, emotionally disengages, takes a helpless stance, appears overwhelmed and paralyzed	Feelings of Powerlessness: Childhood experiences of victimization cause profound feelings of helplessness and hopelessness. The court setting, hearings, legal process, interacting with authority figures, case conferences – these can all trigger profound feelings of lack of control.

Strategies for Supporting Early Caregiving Relationships

There are several strategies for attorneys who represent very young children to effectively support stable, protective early caregiving relationships. These strategies create opportuni-

19 Joy DeGruy, *Post Traumatic Slave Syndrome: America’s Legacy of Enduring Injury and Healing* (Uptone Press, 2005).

20 National Child Traumatic Stress Network, Child Welfare Committee, *Birth Parents with Trauma Histories and the Child Welfare System: A Guide for Judges and Attorneys* (2011). Available at <https://www.nctsn.org/resources/birth-parents-trauma-histories-and-child-welfare-system-guide-judges-and-attorneys>.

21 Quality Improvement Center for Research-Based Infant-Toddler Court Teams, *Putting the Science of Early Childhood to Work in the Courtroom: An Online Series for Judges and Attorneys* (ZERO TO THREE, 2019). Available at <https://learn.childwelfare.gov/lms/course/view.php?id=62>.

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ties to help parents feel valued and respected so they engage in the case process, build the parent's or caregiver's capacity to nurture and protect the child, promote positive caregiver-child interactions, and avoid disrupting the child's relationships.

- *Promoting Collaboration:* From a trauma-informed perspective, it helps to approach parents with compassion, kindness, and respect, knowing that a child's parent(s) likely have significant issues with trust, self-esteem, shame, and a sense of helplessness. Working in an integrated, collaborative manner with others within the system helps build trust and create opportunities for parents to feel successful and empowered, 'find their voice at the table,' and feel safe and supported.²² Setting a respectful tone from the beginning lays the groundwork for the trust essential to engaging parents in services and activities that can repair and strengthen the parent-child relationship.
- *Recognizing and Responding to Parents' Needs:* For reasonable efforts to support reunification to be meaningful and effective, the complex needs arising from parents' histories of trauma and adversity must be substantively addressed. Effectively addressing these needs requires acknowledging, with empathy and sensitivity, the many past and current challenges facing a parent involved with the child welfare system. In your role representing the child, it helps to shift from identifying parental deficits to a recognizing how the parent's history or circumstances may affect her ability to safely care for her child and how important it is to help parents feel supported and valued. This shift will create a more positive, supportive tone with families that can increase parents' trust and confidence, more accurately identify parents' needs, and help parents engage with services and supports.²³
- *Advocating for Frequent, Meaningful Family Time:* A healthy attachment relationship between a very young child and parent is fueled by frequent nurturing interaction. Parents and children need to spend positive time together to maintain and strengthen the attachment relationship. Additionally, research shows consistent, frequent family time (visitation) is strongly associated with shorter placement time and faster reunification.²⁴ It is critical that parent-child contact happen promptly following removal and that an immediate plan is established for frequent time together as a family. It is also important to advocate for family visits that are meaningful and positive, structuring visits in ways that foster the parent's sense of agency, reduce stress for the child and parent, and build the parent's capacity for nurturing care.²⁵ Successful family time is an important motivator for parent engagement and benefits the child. Children's advocates can support frequent, meaningful family time

22 Family Justice Initiative, *Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings*, undated. Available at <https://familyjusticeinitiative.org/advocacy/high-quality-representation/>; U.S. Children's Bureau, *Supporting Successful Reunifications* (2017). Available at <https://www.childwelfare.gov/pubs/supporting-successful-reunifications/>; Casey Family Programs, *Strategy Brief: How do Safe Babies Court Teams™ Improve Outcomes for Infants and Toddlers?* (December 2019). Available at <https://www.casey.org/safe-babies-court-teams/>.

23 National Child Traumatic Stress Network, Justice Consortium, Attorney Workgroup Subcommittee. *Trauma: What Child Welfare Attorneys Should Know* (2017). Available at <https://www.nctsn.org/resources/trauma-what-child-welfare-attorneys-should-know>.

24 See Margaret Smariga. *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know* (ABA Center on Children and the Law, 2007); Mimi Laver. "Family Time/Visitation: Road to Safe Reunification," *Child Law Practice Today* (Mar/Apr 2017). Available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-36/mar-apr-2017/family-time-visitation--road-to-safe-reunification/.

25 Harris Professional Development Network, Child Welfare Committee, *Guiding Principles for Family Time from an Infant and Early Childhood Mental Health Perspective* (Irving Harris Foundation, in development).

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Strategies a Child's Attorney Can Employ to Promote Meaningful Family Time

Advocate that visits take place in locations that will reduce parents' stress, taking into consideration transportation barriers (Is it a logistically realistic expectation? Will the parent show up exhausted and frustrated? Does the location involve a long car ride for the child?).

Request a family-friendly, comfortable, natural environment where the parent won't feel judged or stigmatized and can engage with the child in different ways (e.g., home-like settings such as the foster parent's home, a library, or an outdoor play space).

To reduce children's stress, advocate for locations that are child-friendly with developmentally appropriate toys and books and where it's safe for babies and toddlers to crawl and play on the floor.

Consider whether to include another person to provide comfort or a sense of security for the child (e.g., a therapist, relative, or the foster parent).

Prepare infants and toddlers for the visit, as the reunion and separation with the parent can be confusing and disruptive. It helps for everyone involved in the case to have a common language and agree on an explanation that is consistently conveyed to the child.

Establish visitation routines. Routines help reduce stress and set parents up for success in the reunion and separation with their child. Encourage the foster parent to create predictable routines in preparing for visits and after visits that can include bringing a comfort object and having a snack before and afterwards.

Collaborative planning with the caseworker can lead to more successful visits and identify needed supports, such as a visit coach or mentor who prepares parents for visits, facilitates successful interactions with the child during visits, and debriefs after visits.

that promotes healing and positive parent-child relationships. Please refer to the accompanying list of recommendations and strategies advocates can use toward these ends.

- *Promoting Supportive, Mentoring Relationships between Parents and Foster Parents:* Children's attorneys and GALs, as well as agency attorneys, play an important role alongside parent attorneys in supporting and strengthening a collaborative, mentoring relationship between the parent and foster parent, when appropriate. When foster parents support parents, parents feel important in their child's life.²⁶ This leads to greater parent engagement in activities with their child and facilitates parenting in the natural settings in which family life takes place. Steps advocates can take include:
 - *Build rapport between birth parents and foster parents early in the case by facilitating 'getting to know you' conversations.*²⁷

26 U.S. Children's Bureau, *Partnering with Birth Parents to Promote Reunification* (2019). Available at https://www.childwelfare.gov/pubPDFs/factsheets_families_partnerships.pdf.

27 See resources on the ABA Center on Children and the Law website for National Reunification Month, available https://www.americanbar.org/groups/public_interest/child_law/project-areas/national-reunification-month/.

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- *Request shared parenting.* When safe and if case plans allow, shared parenting (or co-parenting) is ideal to support the child's sense of security, safety, and predictability. Shared parenting is a crucial strategy for maintaining the parent-child attachment relationship.
- *Encourage regular, consistent communication.* When parents and foster parents communicate regularly and form a collaborative alliance, messages to the child about what to expect during visits are consistent and plans to ease reunions and separations can be effective. Regular, consistent communication also helps the parent stay present and involved in the child's everyday life.
- *Find ways for foster parents to mentor parents during family time,* as it naturally occurs in the context of shared bonding over the child, supporting the parent's capacity to be protective²⁸ and respond to the child's needs.

Conclusion

Trauma-responsive, high-quality representation of infants and toddlers includes practices that can lessen the effects of trauma and promote positive outcomes for very young children and their families. By supporting the parent-child relationship when safe and appropriate and assuring all caregiver-child relationships are stable and nurturing, attorneys and GALs representing very young can help reset their child clients' developmental course, putting them back on a healthy developmental track. ■

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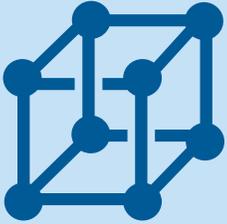


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²⁸ Terry R. Lund & Jennifer Renne, "Chapter 15: Child Safety: What Judges and Lawyers Need to Know, § 15.5.3: The Third Element: Protective Capacities, in *Child Welfare Law and Practice: Representing Children Parents, and State Agencies in Abuse, Neglect, and Dependency Cases* 366-368 (Donald N. Duquette, Ann M. Haralambie, & Vivek S. Sankaran eds., National Association of Counsel for Children, 3d ed. 2016).



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YOUTH PERSPECTIVE

“If You Really Have No One, You Should Definitely Have an Attorney”

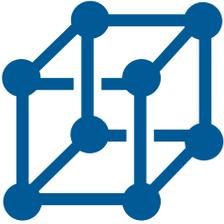
by **Johnathan Hamilton**

When I entered care, I didn't know I had a right to a lawyer [in Washington, D.C.]. Initially I went to meetings surrounding my case with no support. I didn't know what to do or say most of the time. I felt like I was going along with everything that was happening because I didn't have a choice. It was quite frustrating and had me feeling hopeless. What's interesting is that my parents had an attorney and he was very active in making sure my parents had their voice heard and their wishes taken into account. I didn't meet my attorney until about a month after entering care, and didn't feel that same level of investment.

Once I met my attorney, she was dismissive. She wasn't completely rude and outright disrespectful, but in my opinion, she was worse than that — she would talk to me, I would express my feelings about events that were going on in my life, and all of that would disappear in the courtroom. Anything that I asked she barely made an effort to fix, and I would be left feeling betrayed and useless. In fact, she was intent at first on “reunifying” me with my family, even though I was whole-heartedly fighting that. There was one time when my DHS worker was telling me about how they were going to place me in an RTF (residential treatment facility), and of course I knew nothing about what that was and meant. I asked my child advocate attorney and she told me: “It's like a college. It's a big campus where you can go to school. You'll be around people your age. And you'll be able to receive therapy.” I spent almost two years in hell. Obviously, the RTF wasn't anything like college. It wasn't like anything but a piece of trash that I had to endure because of my lawyer lying to me.

I will say my attorney was good at not letting me be completely disregarded. She did speak up for me when facility members, court staff, and my parents got out of line in terms of what they said or did. It's strange because at first, I hated her and saw her as just another flawed part of the system — there to do what the system does best which was give me a little hope and then let me down. But over time, she started actually listening to me and advocating for me. I'm not sure if it's because I was getting older and better at articulating what I wanted. I'm not sure if she could see between the lines and understand that a lot wasn't on me. Maybe she was genuine and felt bad about the direction my life was going in with influence from the system. I honestly don't know. One day she just changed and seemed more concerned about me. She would check

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up on me more often. She actually picked up the phone when I called. She explained to me the things I didn't understand involving my case. There were times where I've had a crisis and been in dire situations and she told me to contact her whenever I was having more trouble, and for the most part I've been and felt safe because of it.

I feel like knowing I have a right to an attorney and connecting with them in the first place can have a huge impact on a person's well-being. Imagine if I knew I had an attorney when my parents showed up to all the initial meetings; or better yet, imagine my attorney actually being there as a supportive and productive adult. It would have made all the difference from the beginning.

I fear if I didn't have an attorney, I don't know where I'd be. I've had two attorneys throughout my journey, excluding stand-ins, and both have driven me on a lighter path. Honestly, I feel in my heart that my attorneys have backed me up more than any blood family that I've had. One memory I have of my attorney (the one who I've mostly been referring to) was when I was newly placed in a group home, and she was laser focused on getting me Christmas presents and getting me into school as soon as possible. I have to admit that was a good feeling; I didn't even expect to get presents, and I did. I've been through much that isn't best handled alone. Without family, friends, and supportive adults. When you lack so much, who is going to help you? And let me be real: being in the system, living in America, being Black, having trauma, etc. — I'm dealing with a lot of things. I can find myself in places no one wants to be. If you really have no one, you should definitely have an attorney. ■



EXECUTIVE DIRECTOR'S MESSAGE

Anchoring our Advocacy in a Community of Support

by Kim Dvorchak, JD

I don't have to tell you — uncertainty, displacement, and disruption are by no means new phenomena in the child welfare system. The children and families we serve are intimately familiar with them and face these feelings all the time. As child welfare law practitioners, it has been and remains part of our daily duty to minimize this as best we can. We are now facing a global pandemic — but while the COVID-19 public health crisis is new to us and the full impacts are unknown, keep in mind that the way we as practitioners should face this is not that new or unknown — it's an extension of our day-to-day role: to keep children and families safe and healthy through zealous advocacy for needed services, supports and interests. You know how to do this.

While we understand disruption from our professional perspective, now we are simultaneously challenged with significant instability in our own lives as well — as caregivers, neighbors, community members, and coworkers. Some of you will be asked to carry your colleagues' cases, others to develop action plans for your office, or to assist even more children and families through this crisis at the very moment when the services and resources they need are shrinking. Yes, it will be challenging, and yes, it is necessary, but know this — you are not alone.

NACC is here to support you. We recognize this public health crisis places a further strain on an already taxed child welfare system and creates a tangle of safety, wellbeing, and permanency priorities. This week we held a video call with leaders of children's law offices across the country as part of NACC's [Children's Law Office Project](#). The conversation confirmed that young people are already being impacted in a variety of ways:

- Child and caregiver health are top priorities, and exposure to the virus and/or diagnosis may rapidly impact placements;
- Courts are postponing dockets, which requires increased vigilance for attorneys to ensure young people's needs are still met, that permanency plans are not waylaid, and that virtual court participation is accommodated for all parties;
- Schools are closing for extended periods, opening up questions about supervision plans and food scarcity for children during the day and school district's responsibilities to provide remote instruction;

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- Youth in detention and residential care settings are extremely vulnerable, not only to viral exposure but also to being cut off from visits from their caregivers, social workers, and attorneys; and
- Children are experiencing heightened levels of anxiety, fear, and uncertainty (please see accompanying tips and resources for talking with children about COVID-19).

We also recognize that sharing knowledge, resources, and experiences is paramount to addressing and minimizing these impacts, both on the children and families we serve as well as ourselves. To that end, NACC will hold a **General Membership Webinar Call to discuss COVID-19 on Thursday, March 26, at 4pm ET**. [Click here to register](#). We know many practitioners, from organizations to government agencies to solo firms, are facing financial and logistical burdens and we want to provide space for exchange and support. NACC staff will share what we have learned to date and provide members an opportunity share current challenges and innovative approaches in their practice during this crisis.

NACC is working to swiftly infuse the child welfare legal community with resources and support in collaboration with national and local partners and funders. We have already set up an [COVID-19 Resource Hub on our website](#). We invite members to share information about the impact of coronavirus on your clients, your practice, and your courts so that we can generate and mobilize resources responsive to your needs. Please email Policy@NACCchildlaw.org to share information, concerns, and resources.

At NACC, *your practice is our purpose*. Our staff is largely working remotely, but we have the tools and technology to build community and support your advocacy. This moment is a test of our community's ability to mobilize, support one another, keep ourselves healthy, and elevate the special needs of the children and families we serve. By promoting community and collaboration, brainstorming and sharing resources, and participating in open and honest dialogues, we can help mitigate some of this uncertainty for ourselves, but more importantly, for the communities and families that we serve. ■

With our deepest gratitude,

Kim Dvorchak, Executive Director



Join the Discussion: NACC General Membership Webinar Call on COVID-19, March 26 2:00pm MT. [Click to register](#).



[Click to find tips and tools at NACC's COVID-19 Resource Hub](#)

Tips for Talking with Children about COVID-19

As public conversations around coronavirus disease 2019 (COVID-19) increase, children may worry about themselves, their family, and friends getting ill with COVID-19. Trusted adults can play an important role in helping children make sense of what they hear in a way that is honest, accurate, and minimizes anxiety or fear.

Remain calm and reassuring. Remember that children will react to both what you say and how you say it. They will pick up cues from the conversations you have with them and with others.

Make yourself available to listen and to talk. Be sure children know they can come to you when they have questions. Learn from them what they've heard about the coronavirus and how they feel about it.

Avoid language that might blame others and lead to stigma. Remember that viruses can make anyone sick, regardless of a person's race or ethnicity. Avoid making assumptions about who might have COVID-19.

Pay attention to what children see or hear on television, radio, or online. Consider reducing the amount of screen time focused on COVID-19. Too much information on one topic can lead to anxiety.

Provide information that is honest and accurate. Give children information that is truthful and appropriate for the age and developmental level of the child. Talk to children about how some stories on COVID-19 on the internet and social media may be based on rumors and inaccurate information.

Teach children everyday actions to reduce the spread of germs. Remind children to stay away from people who are coughing or sneezing or sick. Remind them to cough or sneeze into a tissue or their elbow, then throw the tissue into the trash. Get children into a handwashing habit. Teach them to wash their hands with soap and water for at least 20 seconds, especially after blowing their nose, coughing, or sneezing; going to the bathroom; and before eating or preparing food. If soap and water are not available, teach them to use hand sanitizer.

Stick to normal routines and structures as much as possible, as we know that this creates a sense of predictability for children to be safe and feel safe. But also discuss any new actions that may be taken at school to help protect children and school staff, such as increased handwashing and cancellation of events or activities.

When answering children's questions about COVID-19, try to keep information simple and remind them that health and school officials are working hard to keep everyone safe and healthy. Common questions children might have:

- What is COVID-19?
 - COVID-19 is the short name for "coronavirus disease 2019." It is a new virus. Doctors and scientists are still learning about it.
 - Recently, this virus has made a lot of people sick. Scientists and doctors think that most people will be ok, especially kids, but some people might get pretty sick.
 - Doctors and health experts are working hard to help people stay healthy.

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• **What can I do so that I don't get COVID-19?**

- You can practice healthy habits at home, school, and play to help protect against the spread of COVID-19:
 - Cough or sneeze into a tissue or your elbow. If you sneeze or cough into a tissue, throw it in the trash right away.
 - Keep your hands out of your mouth, nose, and eyes. This will help keep germs out of your body.
 - Wash your hands with soap and water for at least 20 seconds. Follow these five steps — wet, lather (make bubbles), scrub (rub together), rinse and dry. You can sing the “Happy Birthday” song twice.
 - If you don't have soap and water, have an adult help you use a special hand cleaner.
 - Keep things clean. Older children can help adults at home and school clean the things we touch the most, like desks, doorknobs, light switches, and remote controls. (Note for adults: you can find more information about cleaning and disinfecting on CDC's website.)
 - If you feel sick, stay home. Just like you don't want to get other people's germs in your body, other people don't want to get your germs either.

• **What happens if you get sick with COVID-19?**

- COVID-19 can look different in different people. For many people, being sick with COVID-19 would be a little bit like having the flu. People can get a fever, cough, or have a hard time taking deep breaths. Most people who have gotten COVID-19 have not gotten very sick. Only a small group of people who get it have had more serious problems. From what doctors have seen so far, most children don't seem to get very sick. While a lot of adults get sick, most adults get better.
- If you do get sick, it doesn't mean you have COVID-19. People can get sick from all kinds of germs. What's important to remember is that if you do get sick, the adults at home and school will help get you any help that you need.

If you suspect a child may have COVID-19, call the healthcare facility to let them know before you bring the child in to see them. Also explain to children that *others* may need help in being protected (e.g., why we can't visit grandma right now). This can be effective in helping them feel connected to others and feel like they are playing a part in stopping the spread of the virus.

Primarily sourced from the [CDC's guidance on talking with children about COVID-19](#).

Other Helpful Resources:

- [Child Mind Institute's Article on Talking to Kids about the Coronavirus](#)
- [NPR's Just For Kids: A Comic Exploring The New Coronavirus](#) ■

Using Legal Aid to Keep Families Together and Prevent Child Welfare Involvement

by **Karlee M. Naylor** and **Karen A. Lash**,
The Justice in Government Project at American University

“Paul,” a single father from Michigan, was trying to gain custody of his three-year-old son who was at risk of entering foster care because of his mother’s substance use disorder. The court system was difficult to navigate, and he could not afford filing fees and needed assistance applying for a waiver. Lawyers at the Detroit Center for Family Advocacy helped Paul file for a fee waiver, file for custody, and stabilize his housing, which he was also at risk of losing. After gaining custody of his son, the legal team also helped him set up childcare and join a support group.

Source: http://www.risemagazine.org/backups/rise-old-website/issues/Rise_27/Order_of_protection_printer_version.html

With passage of the Family First Prevention Services Act (Family First) in February 2018, the federal government made clear we must move upstream to resolve issues that destabilize families in order to *prevent* those families from entering or remaining in foster care. Inability to resolve complex legal issues related to or exacerbated by poverty — such as eviction, domestic violence, barriers to employment, family law problems, and lack of access to public benefits or health care — too often masquerades as “failure to act” among parents charged with neglect. Abundant research shows that civil legal interventions can prevent common problems of poverty from escalating to child welfare involvement. Collaborations among lawyers and child welfare system professionals can better leverage resources in ways that proactively address families’ underlying legal problems and help parents like Paul keep his son with him and out of foster care.

Possible Legal Interventions for Particular Types of Neglect

State and local child welfare agencies only rarely incorporate legal help as an essential tool for keeping children with their families and improving their path to permanency. Yet partnerships are on the rise given a small but growing body of research that shows when children are removed from the home, legal representation can improve the rate of reunification,¹ double the speed to a child’s adoption or legal guardianship,² and result in better outcomes for children and families as well as substantial savings for government coffers.³ However, collaborations to ensure legal representation for the purpose of preventing a child from entering foster

1 Elizabeth Thornton & Betsy Gwin (2012), *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings*, available at <https://www.jstor.org/stable/23240377?seq=1>

2 Mark E. Courtney & Jennifer L. Hook (2012), *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, available at https://partnersforourchildren.org/sites/default/files/2011_evaluation...impact_of_enhanced_parental_legal_representation...discussion_paper.pdf

3 Steve M. Wood et al. (2016), *Legal Representation in the Juvenile Dependency System: Travis County, Texas’ Parent Representation Pilot Project*, available at <https://onlinelibrary.wiley.com/doi/full/10.1111/fcre.12218>

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care in the first instance are rarer still.⁴ Ideally, the Family First emphasis on prevention and the U.S. Department of Health & Human Services Children’s Bureau’s (Children’s Bureau) recent allowance of reimbursement for legal representation will change that, making such practice the new norm for child welfare programs nationally.

In December 2018, the Children’s Bureau revised its Child Welfare Policy Manual to allow Title IV-E state agencies to seek partial reimbursement for legal representation “for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child’s removal from the home.”⁵ This revision was intended, in part, to help ensure that reasonable efforts are made to prevent removal.⁶

According to the most recent Adoption and Foster Care Analysis and Reporting System (AFCARS) report, the top circumstance associated with children’s removal from the home is neglect (62 percent).⁷ Neglect generally refers to the inability of a parent or caregiver to meet a child’s basic needs, putting them at risk of harm. The Children’s Bureau further differentiates between types of neglect, including physical, medical, inadequate supervision, emotional neglect, and educational neglect.⁸

Although not specifically in the child welfare context, advocates for including legal representation as an essential prevention tool alongside other supportive services can point to an expansive collection of studies that show that some legal problems — which could otherwise progress to meet the Children’s Bureau’s definition of neglect — can be prevented with legal aid. The table below illustrates possible civil legal interventions that can address some types of neglect that can lead to removal and includes citations to studies that demonstrate how civil legal help makes a difference.

4 Vivek Sankaran (2014), *Using Preventative Legal Advocacy to Keep Children from Entering Foster Care*, available at <https://repository.law.umich.edu/articles/947/>

5 See Question 30 at https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36; see also National Association of Counsel for Children (last accessed Feb. 2020), *Children’s Bureau Permits Funding for Child and Parent Legal Representation*, available at <https://www.naccchildlaw.org/page/TitleIVforLegalRepresentation>

6 See https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january-december-2018/reasonable-efforts-as-prevention/; see also Casey Family Programs (2020), *How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?*, available at <https://www.casey.org/preventive-legal-support/>

7 U.S. Department of Health & Human Services, Administration for Children and Families (2019), *The AFCARS Report No. 26*, available at <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport26.pdf>

8 Children’s Bureau (2018), *Acts of Omission: An Overview of Child Neglect*, available at <https://www.childwelfare.gov/pubPDFs/acts.pdf#page=3&view=Types%20of%20neglect>

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Type of neglect	Possible legal interventions
Physical neglect – Abandoning the child or refusing to accept custody; not providing for basic needs like nutrition, hygiene, or appropriate clothing	Helping families apply for or appeal erroneous denials of services and benefits like Supplemental Nutrition Assistance Program (SNAP); Home Energy Assistance; Women, Infants, and Children (WIC); Temporary Assistance for Needy Families (TANF); and Social Security Disability Insurance (SSDI) ⁹
Medical neglect – Delaying or denying recommended health care for the child	Helping families apply for or appeal erroneous denials of services and benefits like Medicaid, the Children’s Health Insurance Program (CHIP), or Supplemental Security Income (SSI) ¹⁰
Emotional neglect – Isolating the child, not providing affection or emotional support, or exposing the child to domestic violence or substance use	Helping survivors of domestic violence escape the situation by filing protection orders, securing custody or divorce, obtaining employment and housing ¹¹ Helping people with substance use disorders obtain health insurance and access recovery and treatment programs ¹²
Educational neglect – Failing to enroll the child in school or homeschool, ignoring special education needs, or permitting chronic absenteeism from school	Establishing guardianship rights for kinship caregivers to facilitate school enrollment ¹³ Securing accommodations for a child’s special education needs ¹⁴ Helping families apply for or appeal erroneous denials of disability accommodations, and services and benefits like TANF, Medicaid, or SSI to pay for school-based services ¹⁵

Additional research demonstrates that other top circumstances associated with child removal identified by AFCARS can also be mitigated or prevented entirely using legal interventions. For example, in instances of parental drug use and alcohol abuse, studies show that legal aid lawyers can help clients access treatment through medical-legal partnerships or by challenging improper Medicaid treatment denials.¹⁶ Similarly, by opening pathways to mental or behavioral health services, legal aid can prevent removals due to child behavioral problems and caretaker inability to cope.¹⁷

9 Although there is a lack of peer-reviewed research or other published studies or evaluations of using legal help to secure public benefits, many states have published cost/benefit or return on investment reports that document legal aid organizations’ effectiveness in helping people access benefits they qualify for. E.g., Social Return on Investment from Legal Aid Services: A Statewide Analysis Report, March 6, 2018, <https://delawareccj.org/wp-content/uploads/2018/03/Social-Return-on-Investment-of-Legal-Aid-Services-final-3.7.2018.pdf> (Delaware analysis of economic benefits secured in 2015, “\$10.32 million in public income benefit maintenance or initiation (i.e., social security, TANF, SSI, SSDI, and unemployment, SNAP, WIC, or LIHEAP)”). For more impact studies go to https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/atj_commission_self-assessment_materials/. See also James A. Teufel et al. (2009), *Process and Impact Evaluation of a Legal Assistance and Health Care Community Partnership*, available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.890.3723&rep=rep1&type=pdf>

10 Robert Sege et al. (2015), *Medical-Legal Strategies to Improve Infant Health Care: A Randomized Trial*, available at <https://pediatrics.aappublications.org/content/early/2015/05/26/peds.2014-2955>; see also Rose-Jacobs et al. (2019), *Housing Instability Among Families With Young Children with Special Health Care Needs*, available at <https://www.ncbi.nlm.nih.gov/pubmed/31292218>

11 Jacqueline Lee & Bethany Backes (2018), *Civil Legal Aid and Domestic Violence: a Review of the Literature and Promising Directions*, available at <https://www.deepdyve.com/lp/springer-journals/civil-legal-aid-and-domestic-violence-a-review-of-the-literature-and-Z6c1KipK7q>; Carolyn Copps Hartley & Lynette M. Renner (2018), *Economic Self-Sufficiency among Women Who Experienced Intimate Partner Violence and Received Civil Legal Services*, available at <https://link.springer.com/article/10.1007%2F10896-018-9977-0>; Institute for Policy Integrity (2015), *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence*, available at <http://policyintegrity.org/documents/SupportingSurvivors.pdf>

12 Legal Services Corporation (2018), *Opioid Task Force Kick-Off Meeting*, available at <https://www.ncsc.org/~media/Files/PDF/Topics/Opioids-and-the-Courts/Opioid%20Task%20Force%20Kick-Off%20Meeting%20Briefing%20Book.ashx>; see also Daniel Siegal (2019), *Urgent Care: How Attorneys Are Battling The Opioid Crisis*, available at <https://www.law360.com/articles/1171390/urgent-care-how-attorneys-are-battling-the-opioid-crisis>

13 See the American Bar Association Center on Children and the Law (2014), *State Educational and Health Care Consent Laws*, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-33/june-2014/state-educational-and-health-care-consent-laws/

14 Although there is a lack of peer-reviewed research or other published studies or evaluations of legal help to secure educational accommodations for students with disabilities, the federally-funded network of Protection & Advocacy organizations provide legal help to these students to secure the education services and supports guaranteed under the Individuals with Disabilities Education Act. See e.g., <https://www.disabilityrightsca.org/what-we-do/programs/legal-advocacy-unit-lau>

15 *Supra* notes 9 and 10.

16 See National Center for Medical Legal Partnership (2018), *The Opioid Crisis in America & the Role Medical-Legal Partnership Can Play in Recovery*, available at <https://medical-legalpartnership.org/wp-content/uploads/2018/02/MLP-and-the-Opioid-Crisis.pdf>

17 Aleah Gathings (2014), *MFY Legal Services, Inc.’s Medical Legal Partnership with Bellevue Hospital Center: Providing Legal Care to Children with Psychiatric Disabilities*, available at <https://academicworks.cuny.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1357&context=clr>

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Research also shows that effective reasonable efforts related to housing may include offering legal representation to parents at risk of eviction, or pushing landlords to redress unlawful unsanitary housing conditions to stabilize children’s health.¹⁸ Similarly, though civil legal aid may not be able to prevent a parent’s incarceration, it can help people with a criminal record obtain gainful employment through expungements and record-clearing, resulting in higher employment and wages and lower rates of recidivism,¹⁹ or help to reinstate a parolee’s suspended driver’s license, or modify a child support order based on a person’s actual ability to pay.²⁰

The U.S. Department of Health & Human Services, Administration for Children and Families Children’s Bureau information memorandum ‘*High Quality Legal Representation for All Parties in Child Welfare Proceedings*’ states:

“Both parents’ attorneys and children’s attorneys can be helpful in addressing the collateral legal issues that may leave families vulnerable, such as housing, employment, immigration, domestic violence, healthcare and public benefit issues – one or any combination of which may contribute to bringing families into contact with the child welfare system. Such efforts may help prevent children from entering foster care or help children return home sooner.” (p. 7)

Many federal agencies have recognized the importance of legal aid in effectively and efficiently responding to problems that may eventually result in child welfare interaction. And in January 2017, the Children’s Bureau made clear its agreement in an information memorandum, saying that counsel for parents and children can help address collateral legal issues that leave families vulnerable or contribute to bringing families into contact with the child welfare system.²¹

Funding Support for Legal Aid

The Children’s Bureau’s evidence-based policy now allowing reimbursement for eligible administrative costs of legal representation for “a candidate” for Title IV-E foster care should become a lifeline for families and child welfare professionals alike in the shared goal of preventing removal, shortening a child’s stay in foster care, and stabilizing low-income families. But Title IV-E funds are not the only option. States receive a significant influx of federal grants to implement many policies and programs, including those to enable access to health care, income security, education, employment, social services, and housing.²² Many opportunities

18 Stout Risius Ross (2018), *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants*, available at <https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf>; Luke Grundman & Muria Kruger (2018), *Legal Representation in Evictions – Comparative Study*, available at <https://www.minnpost.com/wp-content/uploads/2018/11/2018-Eviction-Representation-Results-Study-with-logos.pdf>; see also The Justice in Government Project’s research brief on how legal aid can improve housing incomes, available at <https://www.american.edu/spa/jpo/toolkit/module-1.cfm#collapse-5224691>. For supporting evidence of the positive outcomes of the medical-legal partnership model for children, see Robert Sege et al. (2015), *Medical-Legal Strategies to Improve Infant Health Care: A Randomized Trial*, available at <https://pediatrics.aappublications.org/content/early/2015/05/26/peds.2014-2955>

19 J.J. Prescott & Sonja B. Starr (2019), *Expungement of Criminal Convictions: An Empirical Study*, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620

20 U.S. Department of Health & Human Services, Administration for Children & Families (June 2012), *Child Support Fact Sheet Series: Access to Justice Innovations*, available at https://www.acf.hhs.gov/sites/default/files/ocse/access_to_justice_innovations.pdf

21 See U.S. Department of Health & Human Services (2017), *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, available at <https://www.acf.hhs.gov/sites/default/files/cb/im1702.pdf>

22 See Module 2 of The Justice in Government Project’s Toolkit which contains information and resources related to funding civil legal aid, including a comprehensive Grants Matrix, Grant Forecasting Guide, and in-depth FAQs, available at <https://www.american.edu/spa/jpo/toolkit/module-2.cfm>. Also see <https://legalaidresources.org/>, the National Legal Aid & Defender Association’s website for federal funding resources.

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to financially support civil legal aid for families at risk of encountering the child welfare system flow from states' power to administer some of these federal funding sources.

Title IV-E state administrators have a number of federal and state administering agency colleagues serving their same population with whom to collaborate on the provision of essential legal help. Other examples of federal funds that can be used for civil legal aid to help families struggling with poverty-related problems that put them at risk of entering the child welfare system include:

- U.S. Department of Health & Human Services (HHS) clarified that legal aid is included in the range of “enabling services” that HHS-funded community health centers can provide to meet communities’ primary care needs.²³
- HHS has made clear state and local TANF administrators can use funds for legal aid for low-income families that furthers TANF purposes.²⁴
- HHS’s State Opioid Response, and Substance Abuse Prevention and Treatment/Community Mental Health Services block grants have all been used to support legal aid that facilitates prevention and treatment services, as well as for children whose parent has a substance use disorder.²⁵
- U.S. Department of Housing and Urban Development’s Community Development Block Grant expressly allows state and local governments to use these funds for legal aid to help low-income people avoid eviction and foreclosure, and to secure employment.²⁶
- U.S. Department of Justice’s Victims of Crime Act Victim Assistance Formula funds rule clarifies that state administrators can use funds for legal assistance for victims of child abuse and neglect and their kinship caregivers, as well as for elder abuse, domestic violence, and other crimes that may precipitate removal.²⁷
- U.S. Department of Labor’s Workforce Innovation and Opportunity Act rule includes legal aid services among the necessary supportive services the nation’s American Job Centers should provide, including helping people with a criminal record remove obstacles to employment.²⁸

Passage of Family First combined with the Children’s Bureau landmark allowance for legal representation reimbursement together signal transformational change for parents, children, and the child welfare professionals who serve them. They bring child welfare financing into alignment with research-informed practices to keep children in their homes whenever safe

23 See Form 5A, describing “enabling services” as including those that “support health center patient’s access to non-medical, social, educational, or other related service (e.g., child care, food banks/meals, employment and educational counseling, legal services/legal aid)” at p. 24, <https://bphc.hrsa.gov/sites/default/files/bphc/programrequirements/scope/form5aservicedescriptors.pdf>

24 See The Justice in Government Project’s *FAQs About Legal Aid and TANF*, which explains how TANF can support legal aid and how TANF furthers the goals of TANF, available at <https://www.american.edu/spa/jjpo/toolkit/grant-faqs.cfm#collapse-5364032>

25 See The Justice in Government Project’s *Grant Matrix*, which details how legal aid can be supported using the Substance Abuse Prevention and Treatment Block Grant and the Community Mental Health Services Block Grant, available at <https://www.american.edu/spa/jjpo/toolkit/module-2.cfm>

26 See Chapter 2 of HUD’s *Guide to National Objectives and Eligible Activities for State CDBG Programs* at p. 2-38, available at <https://www.hudexchange.info/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Chapter-2.pdf>

27 See <https://www.law.cornell.edu/cfr/text/28/94.121>

28 See <https://www.govinfo.gov/content/pkg/FR-2016-08-19/pdf/2016-15975.pdf>

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and possible. When a child must be removed from their home, these policies keep reunification and permanency within reach by supporting legal representation. The Children's Bureau policies and actions that elevate the importance of quality legal representation promise to move the child welfare system forward in ways not possible even a few years ago. The challenge ahead for us all is to ensure that every state takes full advantage of the IV-E legal representation reimbursement opportunity so that every family in need of legal representation actually receives it. ■

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Judge Edwards is a retired judge from Santa Clara County, California, where he served for 26 years, primarily in the juvenile court. He now works as a consultant. His writings can be seen on his website: judgeleonardedwards.com

**The author wishes to thank Judge J. Robert Lowenbach (ret.) for his contributions to this article.*

Reasonable Efforts: Let's Raise the Bar

By **Judge Leonard Edwards (ret.)***

Federal and local statutes detailing reasonable efforts requirements can be a powerful advocacy tool. When used effectively, such legal advocacy will ensure that children can remain at home with their parents or be reunified quickly should they be removed. It is critical that attorneys and judges be familiar with these requirements and discuss them in juvenile court proceedings. Judges and attorneys can raise reasonable efforts in a way that will improve the supports and services parents need to be successful in reunifying with their children and in assuring permanency for children. This article addresses a number of issues that are frequently overlooked by attorneys and judges. It is hoped that the reasonable efforts law will do as it was intended — give parents a fair chance to retain their children and provide permanency for children.

1. **Failure to locate, notice and engage fathers:** Using social media, investigators, Family Finding, child support information, and other procedures, social workers can identify fathers, engage them, and bring them into the juvenile court process. But, too often, these efforts aren't happening. This failure is both a lack of reasonable efforts to prevent removal of the child and to facilitate reunification. The father and his relatives are often the answer — an important alternative to foster care.¹
2. **Failure to locate, notice, and engage relatives:** Family Finding can identify and gain contact information for scores of relatives in a few hours. Indeed, Family Finding is recommended in federal law as a best practice.² Federal law prefers relative placement to both foster care and congregate care as relative placement is a permanent plan.³ Relatives are often able to provide a home for the child. It is a violation of the reasonable efforts mandate to prevent removal and facilitate reunification when relatives are ignored or brought into the case weeks and months after a child has been removed.
3. **Failure to support a relative/kinship provider:** When the permanency plan is guardianship/custody with a kinship provider, the agency has an obligation to support the established goal of relative placement. Just as the state provides financial support for adoptive parents, it should assist relatives who have received a child into their care. Failure to do so is a violation of the reasonable efforts mandate to prevent removal and to achieve timely permanency.

1 Edwards, L., "Engaging Fathers in the Child Protection Process: The Judicial Role," *Juvenile and Family Court Journal*, Spring 2009, at pp. 1-29. Available free for download at judgeleonardedwards.com

2 See the Fostering Connections to Success and Increasing Adoptions Act of 2008. Public Law No. 113-183.

3 Edwards, L., "Relative Placement: The Best Answer for Our Foster Care System," *Juvenile and Family Court Journal*, Vol 69 No 3 (2018). [<http://judgeleonardedwards.com/docs/Relative-Placement-JFCJ-69-3-2018.pdf>]

► **Raise the Bar** from previous page

4. ***The missing or inadequate service:*** On occasion the parent is required to complete a service that is either unavailable or is structured in such a way that it does not promote reunification.

An example occurred in my juvenile court years ago. The agency provided visitation once a week for two hours on a Saturday morning in a large gymnasium. Parents would come and meet their children in this large room. I attended one of these visitation sessions and was concerned about the quality and quantity of visits in the context of the reunification goal. The large gymnasium meant that many families were visiting at the same time and this made personal exchanges among family members difficult. The once-a-week visitation schedule seemed inadequate to maintain family connections. I hired two psychologists to follow one family from the beginning of a case and, in particular, their visitation experience. I asked if the visitation at the gymnasium promoted reunification.

I received the report a few months later. The report made many recommendations including the following:

Families for whom reunification services are recommended should not be using this facility in this manner. As stated before, this type of visitation cannot be seen as playing any part in a reunification plan. Visitation for the purposes of reunification requires much more parent-child interaction time, with much more focused guidance and supervision of this interaction.

The report added that the visitation program should be augmented by more staff and families should have individualized visitation plans. Several other recommendations addressed the visitation issue. I gave the Director of Family and Children's Services a copy of the report along with a statement that I would consider making "no reasonable efforts" findings were he not to make substantial changes in the visitation program. He made significant changes including the purchase of a house and setting up several rooms for private family visits.⁴

This is only one example of how a judge can work with the agency to make significant changes in the service delivery system in a particular jurisdiction.

5. ***Services with a long waiting line:*** The law does not give parents a long time to complete services. As a result, the available reunification period is short. Parents need to get involved in services as soon as possible, and a waiting list of months will frustrate their efforts. The court should consider such delayed services to be unavailable and hold the agency accountable by making a "no reasonable efforts" finding.

4 The entire report from the psychologists is available in Appendix E of *Reasonable Efforts: A Judicial Perspective*, by Judge Leonard Edwards (2014). The entire report is available online at judgeleonardedwards.com at pp. 410-418.

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This practice represents a failure of the agency to provide timely services to facilitate reunification.

The agency's response may be that the service provider is the problem not the agency. This is incorrect. It is the agency that is responsible for providing the services. The fact that it contracted with a provider that cannot provide timely services is the fault of the agency.

Attorneys and juvenile court judges need to raise the reasonable efforts issue when either services are unavailable or have long waiting lines. Attorneys should let the judge know that the service must be provided in a timely fashion and that failure to do so is a violation of the reasonable efforts to reunify mandate.

6. **Delay in completing the permanency plan:** Children need permanency. Developmental experts inform us that children can't wait.⁵ They need permanency now. But when a permanent plan has been set and is delayed for weeks and months (even years), the child suffers, and the law is violated. Attorneys and judges must take steps to understand the adoption, guardianship, and relative placement processes so that delays can be avoided. A failure to achieve timely permanency should result in a "no reasonable efforts" finding as required by law.⁶
7. **Children who linger in foster or congregate care:** Many children are placed in foster or congregate care and remain there for years. In these cases, each time the case comes up for review, the report indicates that the child remains in the same placement or that he or she has been moved to a new placement. The usual court order is to continue the child in the same foster or congregate care placement. However, neither of these placements is a permanent plan. Because the placement seems like the only alternative, the child will remain there until aging out of care. Some professionals refer to them as "cold cases" since it appears that no one is paying attention to the child's situation.

But the agency should be taking steps to finalize a permanent plan as required by federal and state laws.⁷ Several jurisdictions have addressed this issue by using Family Finding and identifying relatives who can become a part of the child's life. The New Jersey Post-Termination Project has identified and connected hundreds of children to their extended families.⁸

Judges and attorneys need to be aggressive about finding relatives. They must hold the agency accountable to complete the permanency process. Once again, however, it appears that this "reasonable efforts" issue is not being litigated. There are no

5 Goldstein, J., Freud, A., & Solnit, A., *Beyond the Best Interests of the Child*, Free Press, 1973.

6 Adoption and Safe Families Act, 42 U.S.C. §671(a)(15)(C); 45 CFP §1356.21(b)(2).

7 Preventing Sex Trafficking and Strengthening Families Act of 2014; P.L.113-118.

8 Floria, Judge S., "More Good Than Harm: Legal Orphans and the New Jersey Post-Termination Project," *Juvenile and Family Court Journal*, Vol. 59, No. 2, Spring 2008, pp. 1-13.

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appellate cases questioning agency efforts to search for a permanent home for these children. The failure to make progress toward the permanency goal is unacceptable under the law and should be raised in the legal proceedings.

Conclusion:

The reasonable efforts mandate in federal and state laws was intended to give the court tools to monitor the actions of the social service agency and improve the lives of children and their families. Attorneys and judges should use these tools to ensure the parents have a fair opportunity to reunite with their children and that children reach permanency in a timely fashion. The examples in this article are some of the issues that could and should be raised in court. If addressed, they will improve outcomes for children and their families. ■

LAW OFFICE CORNER

Leveraging the Family First Act to Enhance Legal Advocacy:

Q&A with Kansas Legal Services

The federal Family First Prevention Services Act (Family First) poses new opportunities and challenges for states seeking to embed prevention services throughout their system and keep families together. Most of the legislation's funding is directed toward particular social service programs (mental health, substance abuse treatment, etc.), but advocates at Kansas Legal Services have partnered with the state child welfare agency to forge a creative legal services pathway. NACC had the opportunity to learn more from Marilyn Harp and Kellie Hogan of Kansas Legal Services.

Since it passed in 2018, the Family First Act has been considered as an opportunity for developing preventive social services, such as mental health treatment or parenting education. Kansas Legal Services (KLS) has just started leveraging a state-level "Family First" grant for legal services. Can you tell us more about it?

KIN-TECH provides legal services for non-parental caretakers of children who are at risk of placement in foster care. The State social service agency makes referrals to Kansas Legal Services to file guardianship cases, adoptions, prepare powers of attorney, or resolve any other legal barrier which may exist that if not resolved could result in a child's placement in foster care. For example, if a parent was unable to provide care for a child and grandmother was willing, but the state could not officially allow the child to live with grandmother because she had a prohibited, but expungable offense, the KIN-TECH program could represent the grandmother to obtain an expungement.

How did this opportunity come about and what kind of partnership was needed with your state's child welfare agency to access the funding?

We believe our grant application was strengthened as a result of a listening tour the state agency conducted in the Spring 2019. The agency toured the state and met with families, line workers, and social service providers about what unmet needs existed which if met, could reduce the number of children placed in the foster care system. Every area of the state and all stakeholders identified unmet legal needs for kin caregivers as an opportunity to reduce the number of children being placed in the foster care system.



Kansas Legal Services

We are legal aid in Kansas, providing equal access to justice for the most vulnerable Kansans.

kansaslegalservices.org

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LAW OFFICE

What makes this program appealing to stakeholders?

The program allows families to resolve their own issues without the formality of placement in the foster care system.

Family First-funded services must utilize “evidenced-based” practices. Although your grant is currently funded with state dollars, it is crafted to claim federal funds in the future by meeting the “evidenced-based” criterion. Which modality will your staff use and how will they be trained and supervised to ensure fidelity to the model?

We are using Motivational Interviewing. The project director and head paralegal on the project are being certified as Motivational Interview Trainers. Paralegal and Attorney staff will receive Motivational Interview training. Fidelity to the model will be monitored through supervision and refresher trainings. [EDITOR’S NOTE: *Learn more about Motivational Interviewing and other services approved by the Family First Title IV-E Clearinghouse [here](#).*]

Federal Family First-funded services must also be “trauma-informed.” How will the KIN-TECH incorporate this requirement?

Many KLS staff received training in trauma informed legal services provision in November 2019. Staff will continue to receive regular training to become trauma-informed.

How does this training integrate into the typical lawyer-client relationship? What opportunities and challenges has KLS experienced weaving them together?

Utilizing a trauma-informed lens and motivational interviewing techniques improves the attorney-client relationship. Staff have a better understanding of why clients make the decisions they make and come to appreciate the client’s resiliency. Motivational interviewing helps align attorney and client goals for the representation. It leads to greater compliance with court expectations because client directs the goals and defines how to achieve the court’s expectation.

How do you receive referrals?

Referrals come from the state child welfare agency. All referrals are sent to the lead paralegal who reviews referrals, confirms receipt of referral with social worker, makes contact with client, and directs referrals to Kansas Legal Services local office.

How are these CPS workers educated about your service? What has been their reaction to this new partnership?

The project director and lead paralegal traveled to regional Family First trainings for CPS family preservation workers. Each Family First grantee gave a short presentation to the group about their

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LAW OFFICE

program. Workers were then free to approach Family First grantees individually with questions. CPS workers were very enthusiastic about having a place to refer kin caregivers to resolve legal issues which would not cost the caregivers any money.

This is a fairly new program. What success stories have you seen thus far?

Assuming full-time caregiver responsibilities for a child can be physically and emotionally overwhelming for kin caregivers. Not having legal custody of the child presents an additional barrier to accessing medical and educational services. In one case, simply telling a grandmother that she now had legal guardianship of her grandchild at no cost to her lifted a huge burden from her shoulders. With guardianship, the grandmother was able to obtain a developmental assessment for the child who qualified for early childhood intervention services.

What type of outcomes do you anticipate achieving? How do you plan to evaluate the program?

We expect to see a reduction in the number of children placed in the foster care system. Kin-Tech will be evaluated by researchers at the University of Kansas School of Social Work. ■

EDITOR'S NOTE: NACC will continue to monitor this state program and whether Family First Prevention Services Act (FFPSA) or other federal funds are eventually used to reimburse its FFPSA-compliant framework.



RESOURCE SPOTLIGHT

Power Through Choices: Equipping Youth to Succeed with a Proven-Effective Sex Education Program

How do you make a decision when you don't have all the information you need to understand the outcome?

“It’s hard” would be an over-simplification, and youth involved in systems of care frequently experience this question when it comes to their sexual health. Overall, research has found that adolescents living in foster care have relatively low levels of knowledge about contraception and reproductive health, largely due to lack of consistent access to this information in schools, foster, or group home settings.^{1,2,3,4} This lack of access to sexuality education puts youth in out-of-home care at risk of higher rates of sexual risk-taking behavior and teen pregnancy, HIV, and other STIs: the research overwhelmingly shows that when young people have access to comprehensive, evidence-based sex education, they are more likely to delay sex, have healthy relationships, and avoid STIs and unintended pregnancies when they do become sexually active.^{5,6}

In response to these concerns, many organizations serving these youth have opted to provide the evidence-based sex education curriculum, ***Power Through Choices***, which is designed for adolescents ages 13–18 who are in systems of care (such as foster care or juvenile justice).

Power Through Choices is a unique curriculum, designed by and for youth in systems of care.

The curriculum is composed of ten, 90-minute lessons, designed to be facilitated by a team of two facilitators with groups of 8–20 participants, among youth of all genders. Facilitators must complete a training-of-facilitators, offered by ***Healthy Teen Network***, in order to implement the program with youth.



- Hudson, Angela. (2011). Where Do Youth in Foster Care Receive Information About Preventing Unplanned Pregnancy and Sexually Transmitted Infections? *Journal of Pediatric Nursing*, 27, 443-50. [10.1016/j.pedn.2011.06.003](https://doi.org/10.1016/j.pedn.2011.06.003).
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- Chin, H. B., Sipe, T. A., Elder, R., Mercer, S. L., Chattopadhyay, S. K., Jacob, V., Wethington, H. R., Kirby, D., Elliston, D. B., Griffith, M., Chuke, S. O., Briss, S. C., Ericksen, I., Galbraith, J. S., Herbst, J. H., Johnson, R. L., Kraft, J. M., Noar, S. M., Romero, L. M., Santelli, J.; Community Preventive Services Task Force. (2012, March). *The effectiveness of group-based comprehensive risk-reduction and abstinence education interventions to prevent or reduce the risk of adolescent pregnancy, human immunodeficiency virus, and sexually transmitted infections*. *American Journal of Preventive Medicine*, 2012, 42(3):272–294. doi:10.1016/j.amepre.2011.11.006
- United Nations Population Fund (UNFPA). (2015). *Emerging evidence, lessons and practice in comprehensive sexuality education: A global review*. United Nations Educational, Scientific and Cultural Organization, <https://www.unfpa.org/publications/emerging-evidence-lessons-and-practice-comprehensive-sexuality-education-global-review>



▶ **Power Through Choices** from previous page

The curriculum focuses on self-empowerment and the impact of choices on an individual's future. The goal of the program is to provide youth involved in systems of care with specific information and skills to help them avoid risk-taking sexual behavior and reduce the incidence of adolescent pregnancy, HIV, and other STIs. Lesson activities are designed to prepare adolescents to:

1. Make healthy, positive choices related to sexual behavior;
2. Develop and practice effective communication skills;
3. Identify and access available resources; and
4. Use effective pregnancy, STI, and HIV protection.

Designed with and for youth in systems of care, *Power Through Choices* frames the lessons through a lens that is unique to their experiences. Youth feedback guided the development and revision of the curriculum and materials and was included as part of the ongoing continuous quality improvement process to make curriculum revisions.

Power Through Choices differs from the curriculum received by youth not involved in systems of care in several key ways:

- **Starts with the basics:** From filling in gaps in sexuality education that result from inconsistent educational experiences, to addressing lack of trust of adults, to helping participants navigate the complexities of relationships in the absence of healthy role models, *Power Through Choices* is designed to meet these youth where they are.
- **Gender-Inclusive:** Additionally, LGBTQ+ youth are over-represented in the foster care system, with 13.6% of youth identifying as LGBTQ+, compared to 7.2% in the general youth population.⁷ To be inclusive of all youth, and particularly, the diversity found in the systems of care community, the curriculum uses gender-inclusive language and examples in scenarios.
- **Trauma-Informed:** The curriculum incorporates trauma-informed approaches throughout, to be sensitive to any youth participants who have experienced sexual abuse. The facilitator training and curriculum manual coach facilitators on how to support participants during program sessions, as well as how to be prepared to refer participants to counseling or additional support services, as needed.
- **Independent Living Skills:** The content addresses basic and independent living skills relevant for youth in systems of care: beyond health promotion, the curriculum includes information about healthy relationships, positive communication techniques, building skills to access community resources, and exploring issues of trust and appropriate boundaries.

Feedback from Youth Participants:

"It taught me a lot like, like sex-wise and stuff. Taught me how to protect myself from harm and taught how you can do better with yourself and your protection."

"The best thing I learned from the program is that I am still a kid right now, and I probably want to be ready to raise a kid before I have one."

"Right away, I am going to get tested [for STIs] — you know, just to be sure."

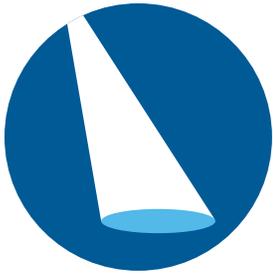
"It taught me a lot about STIs and how many are out there. Like the ones you can and can't get treated. [Power Through Choices] wasn't just all about learning — it was pretty fun too. I think it helped me a lot."

"Very effective. It got me thinking. Because I have never protected myself before. I have never used any way of protection and now I will."

"There are more things that actually go on with my body than I thought was going on."

⁷ Human Rights Campaign & Foster Club. (2015). LGBTQ youth in the foster care system. https://assets2.hrc.org/files/assets/resources/HRC-YouthFosterCare-IssueBrief-FINAL.pdf?_ga=2.74060818.1273166090.1584640211-633617102.1584640211

► **Power Through Choices** from previous page



And it's proven effective.

Power Through Choices was evaluated in a randomized control trial study that included over 1,000 youth in 44 group homes across three states (California, Maryland, and Oklahoma). The findings documented strong evidence of effectiveness. Youth receiving the *Power Through Choices* curriculum reported statistically significant impacts in knowledge, attitude, intention, and behavior on a 12-month post-program survey:

1. More than 9 out of 10 participants reported receiving information about HIV, STIs, and birth control;
2. Participants were 28% less likely to report having sex without birth control;
3. Participants were 33% less likely to be involved in a pregnancy;
4. Participants reported feeling more equipped to communicate with partners, obtain birth control (67.3% versus 59.2 %); and
5. Participants reported feeling more able to plan for or avoid unprotected sex.^{8,9,10}

Now what? The youth I work with need this curriculum.

To learn more about *Power Through Choices*, including how to bring the curriculum to your jurisdiction and how to become a facilitator, visit PowerThroughChoices.org and these resources:

- [Curriculum Overview](#)
- [Impact Evaluation Summary](#) ■

Feedback from Group Home Staff:



"I think it was very productive and the way the information was presented to the kids was on a level they could understand even though it was a lot of biological and different terms. They were able to clearly understand the information and it is something that they need to have."

"This is something these kids aren't learning anywhere else. They get zero education on these subjects outside of this environment."

"I think they [youth] are also gaining how to trust adults when they have issues, since there are adults presenting this information and they're showing them—'hey look, you can talk to somebody about it' or whatever. You don't have to be afraid to talk to somebody in authority or an adult or anything else. I think they are gaining that—which doesn't have anything to do with sex education, just being able to trust adults better."

8 Oman, R., Vesely, S., Green, J., Clements-Nolle, K., Minggen, L. Adolescent pregnancy prevention among youths living in group care homes: A cluster randomized control trial. *American Journal of Public Health*, Supplement 1, 2018;1(108): s38-s44. <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2017.304126>

9 U.S. Department of Health and Human Services, Office of Adolescent Health. (2016). *Final impacts of the Power Through Choices program*. Retrieved from https://www.hhs.gov/ash/oah/sites/default/files/ash/oah/oah-initiatives/assets/ptc_finalimpactreport.pdf

10 Green, J., Oman, R., Minggen, L., Clements-Nolle, K. Long-Term Improvements in Knowledge and Psychosocial Factors of a Teen Pregnancy Prevention Intervention Implemented in Group Homes. *Journal of Adolescent Health*, Volume 60, Issue 6, 698 – 705 <https://doi.org/10.1016/j.jadohealth.2017.01.004>

READER PANEL

Strategies and Tips for Crossover Youth Cases

Reader Panel Question: Research and practitioner experience confirm that “crossover” between the child welfare and juvenile justice systems is all too real. As an advocate, what legal tools, strategies and policies do you use to prevent foster youth from getting dually entangled in the juvenile justice or adult criminal legal system?

Amanda Pearson: As an advocate, it is important to remember that most attorneys are not mental health or social services experts. Sure, we know a lot, especially those of us who have practiced for many years, but we need to ensure that we seek and listen to expertise, and then help the courts and attorneys hear what those educated in those fields are saying, in both juvenile justice and welfare courts. This is the beginning of crossover practice. Next, be part of building a team. Successful crossover practice takes players from all systems. In our district this was championed by our probation, social services, and restorative justice offices. Follow the information and process provided by the Center for Juvenile Justice Reform at the Georgetown University McCourt School of Public Policy and their Crossover Youth Practice Model. Finally, the core services used in child welfare cases can successfully be extended to juvenile justice cases to prevent placement and result in better permanency outcomes.

Buffy Okuma: As an Agency attorney, I am limited in what I can do to directly impact a youth’s involvement with the delinquency or adult criminal system, however, I can advocate for providing the proper services and for ensuring the youth has a positive adult connection. When a youth does become involved, primarily in the delinquency system, it is important for the juvenile probation officer and the social worker to communicate and have an understanding of each system’s roles and resources. In our jurisdiction, youth who are involved in both systems have their cases heard in front of the same judge with the social worker and the juvenile probation officer both present. This allows for better coordination of planning and resources.

Claire Terrebonne: We have a pretty robust diversion program and youth court in our jurisdiction, so there are realistic alternatives to getting too entangled in the juvenile justice system, unless we are talking serious and violent felonies. Because our clients are almost always subject to a dependency case and receiving therapeutic and other services (in theory!), we are often able to successfully argue to the prosecutor and the court that there is nothing more the juvenile system can provide beyond what the child welfare system is already doing, therefore dual involvement would nothing more than punitive and a waste of resources. ■

JOIN THE PANEL!

Guardian readers are invited to join our Reader Panel. You’ll receive an email asking for your responses to questions about child welfare legal practice. Selected responses will be featured in *The Guardian*. Please send an email to Comms@NACCchildlaw.org letting us know you are interested in joining the panel.

NACC Policy and Amicus News



Allison Green, JD, CWLS
Legal Director
Allison.Green@NACCchildlaw.org



NACC Supports Full Funding for Juvenile Justice and Delinquency Prevention Act:

NACC joined the ACT4JJ Coalition to urge Congress to fully fund the *Juvenile Justice and Delinquency Prevention Act* (JJDP). These monies are necessary to promote critical programs that address and prevent crossover between young people experiencing the child welfare and juvenile justice systems. [Learn more and lend your support here.](#)



NACC Urges Passage of the COURTS Act:

NACC and several partner organizations continue to urge Congress to pass the *Continuation of Useful Resources to States* (COURTS) Act. This bipartisan legislation would provide an important technical fix for *Court Improvement Program* (CIP) funding for attorney training, certification, and other innovations. [Read our joint request here](#) and share it with your colleagues — then contact your congressional representatives and request their support!



NACC Files Amicus Brief in Maryland ICPC Case:

NACC has long opposed the unconstitutional application of the *Interstate Compact on the Placement of Children* (ICPC) to non-resident parents from both a legal and policy perspective. In February, NACC filed an amicus brief in the Court of Appeals of Maryland further advocating this position. The brief's appendix includes a [national survey of state case law on ICPC](#) and its application. [Read the brief here.](#)



SCOTUS Grants Cert in NACC Amicus Case:

In 2018, NACC joined an [amicus brief](#) led by Children's Rights in the case of *Fulton v. City of Philadelphia*. The brief supported Philadelphia's anti-discrimination policy, which upholds the rights of young people experiencing foster care and is consistent with best practices around safety, well-being and permanency. In April 2019, the Third Circuit agreed with Amici and [affirmed](#) the district court's decision to deny injunctive relief. On February 24, 2020, the U.S. Supreme Court granted a Petition for a Writ of Certiorari in this matter. NACC will keep our members updated as the case progresses.



Every Child Deserves a Family Act Pending:

The *Every Child Deserves a Family Act* (ECDF) would prohibit federally-funded child welfare service providers from discriminating against children, families, and individuals because of their religion, sex, sexual orientation, gender identity, and marital status. It also ensures that children and youth in foster care receive the identity-affirming, culturally competent care they deserve. This act is a bipartisan, legislative response to some of HHS's discriminatory actions over the last 1–2 years. Call your representative and ask them to support ECDF (HR 3114)!

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NACC Joins National Campaign for Trauma-Informed Policy and Practice: NACC recently joined the [Campaign for Trauma-Informed Policy and Practice](#). The initiative is designed to organize local and state leaders to advocate with their congressional offices in support of evidence-based, trauma-informed policies and passable legislation that promotes healthy and resilient communities. If you are interested in learning more, membership is open to [any individual](#) and [any organization](#).



2020 Census: Make Sure Your Clients are Counted: Children have historically been missed in the census, especially those in complex living arrangements like foster care. Research found that a high proportion of young children living with foster families were missed in the 2010 Census. Undercounting impacts support for critical programs such as children's health insurance, hospitals, childcare, food assistance, schools, and early childhood development. The Count All Kids campaign has released [this new toolkit](#) with resources for advocates to make sure you all young people in your community are counted in the census. This includes a factsheet that agencies can send to foster parents about including their foster kids, and a template cover letter advocates can use to send to state child welfare agencies or foster care agencies. You can learn more at www.2020census.gov. ■

Policy Request: If you are working on Title IV-E or another child law advocacy project, and you believe NACC can assist you in achieving your goals, please submit a request using our [online form](#).

Amicus Request: The NACC Amicus Curiae Program promotes the legal interests of children through the filing of amicus curiae (friend of the court) briefs in state and federal appellate courts. We submit our own briefs and participate as co-amici in cases of particular importance to the development of law for children. To submit a request for the NACC to participate as amicus curiae in a case you are working on, please download and complete [NACC Amicus Curiae Request Form](#).

NACC Office Hours: NACC is available to assist members hoping to leverage [new federal Title IV-E funding opportunities](#) to support child and parent representation in their states and counties. Contact Allison.Green@NACCchildlaw.org to reserve time to ask questions, request resources, and brainstorm next steps to get things moving in your jurisdiction. ■



Membership Matters

Introducing Organizational Memberships

NACC’s newly updated organizational membership program is designed to bolster the national NACC community by engaging child welfare offices and agencies from small teams to large agencies. An organizational membership provides Bronze-level membership benefits and discounts to your entire office, law firm, or agency. When your office joins NACC as an organizational member, all staff can enjoy access to member benefits and resources including monthly webinars, monthly newsletters, the quarterly *Guardian*, discounts on CWLS certification applications, training, conference, and more!

Learn more and [enroll your organization now!](#)



Ruthann Gonzalez
Membership Outreach Assistant
Ruthann.Gonzalez@NACCchildlaw.org

Upcoming Member Webinars

The Next Level: Appellate Practice in Child Welfare Cases (in Two Parts)

An appeal is a powerful tool in the child welfare system. In this two-part webinar series on appellate fundamentals in child welfare law, the presenters will provide concrete tools and take-aways to attorneys filing and responding to appeals. This webinar series will be beneficial to both attorneys who have previous experience handling appeals and those who have not yet had the chance to do so.

Part 1: April 7, 2020, 2:00-3:30pm

Part 2: May 5, 2020, 2:00-3:30pm

Presenters: Melissa Colangelo, JD, Children’s Law Center (Washington, DC) and Abraham ‘Abe’ Sisson, JD, Associate, Delaney McKinney, LLP

[See page 37 for details.](#)



Sara Willis, MA
Business and Operations Director
Sara.Willis@NACCchildlaw.org



BE THE CHANGE: NACC IS RECRUITING 10 MORE STATE COORDINATORS

Join our movement to promote excellence, build community, and advance justice for children and families — in your state and with your peers across the country.

[Click here to learn more and apply.](#)

Profile Update Reminder

If you haven’t done so recently, please check your NACC Membership Profile and update it with your latest information and preferences. We have many NACC members and website visitors searching our directory looking for experts and networking opportunities.



Thank you to our Platinum Lifetime, Gold, and Silver Members!

PLATINUM LIFETIME

Candace Barr	Amanda Engen	Henry Plum	John Stuemky
Donald Bross	Donna Furth	Allison Schmidt	Smith Williams
Irma Carrera	Gerard Glynn	Janet Sherwood	
Amanda Donnelly	Charles Masner	Yve Solbrekken	
Leonard Edwards	Kathleen McCaffrey	Cynthia Spencer	

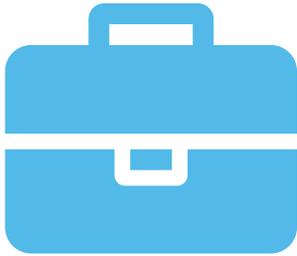
Build NACC’s Platform with a Platinum Membership! When you renew your membership at the Platinum level, you receive all NACC member benefits for life! No notices, no renewals, just continued uninterrupted benefits. Lifetime Platinum Memberships cost \$2,500 and may qualify in whole or in part as a business deduction or charitable contribution (please see your tax advisor for more information). 2020 is an important year to become a Platinum Member to support the goals of NACC’s [2019–2023 Strategic Plan](#) and accelerate our impact across the country.

GOLD

Nadine Bailey	Melody Ellis	Angela Kohel	Deborah Reece
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Jonathan Conant	Amy Hobbs	Angela Peinado	Judy Waksberg
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Jessica Elam	H.D. Kirkpatrick	Michelle Placzek	Christopher Wu
	Lenore Knudtson	Thailund Porter-Green	

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Debra Barriger	Emma Haddix	Deborah Liverence	Bonnie Saltzman
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Anne Cardea	Alesia Hansen	Robert Melton	Sandra Swanson
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Nicole Forelli	Bob Huddleston	Tierney Peprah	Nicole Williams
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Training

Introducing NACC's New Training Director: Kristen Pisani-Jacques, JD



Kristen joined the NACC team in February as the new Training Director. Previously, Kristen served as the Deputy Director of the Guardian ad litem (GAL) Project at the Children's Law Center in Washington, DC. As Deputy Director, Kristen helped to lead GAL program design, management, and evaluation, guided appellate strategy, and ensured high-quality representation of clients in the D.C. child welfare system. During her eleven years at the Children's Law Center, Kristen also served as a case-carrying GAL, supervising attorney, and senior supervisor. She has over a decade of experience providing representation to children in child welfare and high-conflict custody cases, as well as representing caregivers seeking adoption, guardianship, and custody. Kristen has presented locally and nationally on a variety of child welfare topics. Kristen earned her law degree at Georgetown, where she participated in the Street Law and Domestic Violence clinics. Kristen is currently licensed to practice in Washington, D.C. and Maryland, and is based in the Washington, D.C. area with Legal Director Allison Green and Executive Director Kim Dvorchak.

Spring 2020 Online Red Book Training Course

March 4th, 2020 through April 15, 2020; Register by April 15th!

Registration is still open for NACC's spring course! The material covered in the course is drawn from *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases* (3rd Edition "Red Book"). The course consists of seven weekly webinars. Participants can join the course live or watch/listen to recordings for a six-month period.

Applying for Child Welfare Law Specialist certification is not required to take the Red Book Training — but why not take your practice to the next level and obtain this important credential?

To register a group of attorneys from your office, please contact NACC at Training@NACCchildlaw.org. We can also create custom packages to include hard copy Red Books and/or CWLS certification applications.

REGISTER NOW 

▶ [Training](#) from previous page

Upcoming Member Webinars

The Next Level: Appellate Practice in Child Welfare Cases (in Two Parts)

Part 1: April 7, 2020, 2:00-3:30pm

Part 2: May 5, 2020, 2:00-3:30pm

An appeal is a powerful tool in the child welfare system. Not only are appeals a means to challenge legal errors and correct wrongs in individual cases, but they also can create broad change by obtaining precedent-setting decisions on wide-reaching legal questions. In this two-part webinar series on appellate fundamentals in child welfare law, the presenters will provide concrete tools and take-aways to attorneys filing and responding to appeals. This webinar series will be beneficial to both attorneys who have previous experience handling appeals and those who have not yet had the chance to do so.

Part 1 of the webinar will provide an overview of basic appellate principles and key appellate doctrines such as standing, mootness, jurisdiction, and issue preservation. Because a strong appeal starts with a sound trial record, the presenters will share pointers from an appellate perspective that attorneys can use in their everyday trial practice. This webinar will prepare attorneys to strengthen their cases before both the trial judge and the appellate bench and help practitioners answer the question: how do you make the best trial record possible from an appellate perspective?

Part 2 of the webinar will build on Part 1, focusing on the procedural and substantive aspects of appellate practice in greater detail. The presenters will provide tips on drafting persuasive and powerful briefs and dispositive motions, give a refresher on effective usage of citations and proper formats, and offer guidance on how to prepare for and present an effective oral argument.

Presenters:

Melissa Colangelo, JD, Children's Law Center (Washington, DC) and
Abraham 'Abe' Sisson, JD, Associate, Delaney McKinney, LLP

CLEs Now Available!

NACC is committed to maximizing the value and utility of the resources we provide to members. To that end, we are now seeking CLE accreditation in Colorado for all monthly webinars and online trainings going forward, for live participation as well as on-demand viewing. We aren't able to apply for CLE accreditation in all jurisdictions given the administrative capacity required. However, CLE approval in at least one state can streamline an attorney's individual CLE application in another state. All the documents needed to support your CLE applications are posted on NACC's website at the conclusion of webinars and trainings. Please check with your jurisdiction for details on simplified CLE applications and online/on-demand learning requirements. Most states will charge you a small CLE application fee — we hope this is outweighed by NACC's ability to offer these trainings as an additional benefit of NACC membership at no additional cost.

▶ [Training](#) from previous page

Past Webinars Available to NACC Members

	Click Icon to View Webinar	Click Icon to Access CLE Documents	Accredited for CLE in Colorado
<p>How to Use the Federal Reasonable Efforts Requirement to Advocate for Older Youth</p> <p>Presenters: Kristen Pisani-Jacques, JD & Jenny Pokempner, JD</p>			
<p>What Do Foster Youth and Other Stakeholders Want from Their Lawyer? Research Findings Chart the Course to High-Quality Legal Representation</p> <p>Presenters: Jay Miller, Ph.D. & Jessica Donohue-Dioh, MSW, Ph.D.</p>			
<p>New Legal Resources for Incorporating the Family First Act into Your Practice in 2020</p> <p>Presenters: Prudence Beidler Carr, JD & Cristina Ritchie Cooper, JD Moderator: Allison Green, JD, CWLS</p>			
<p>2019 Child Welfare Law Year-in-Review</p> <p>Presenters: Steven Olender, MPP & Allison Green, JD, CWLS</p>			
<p>The Intersection of Child Welfare and Civil Rights: A Conversation with the ACLU</p> <p>Presenters: Jason D. Williamson, JD & Somil Trivedi, JD</p>			
<p>Family Separation at the Border: Updates from the Front Lines and What You Can Do About It</p> <p>Presenters: Vanessa Pineda, JD & Miriam Abaya, JD</p>			
<p>Children's Right to Counsel: Statutory Reform, Litigation, Delivery Systems</p> <p>Presenters: Amy Harfeld, JD & Robert Fellmeth, JD</p>			
<p>A Courtroom Advocate's Guide to the Family First Galaxy</p> <p>Presenters: Allison Green, JD, CWLS & Stefanie Sprow, JD</p>			
<p>Title IV-E Funding for Legal Representation</p> <p>Presenters: Gerard Glynn, MS, JD/LLM, Erin Lovell, JD & Tom Rawlings, JD, CWLS</p>			
<p>Active Efforts and the Indian Child Welfare Act (ICWA)</p> <p>Presenters: Vida Castaneda, MA & Hon. Leonard Edwards (ret.)</p>			
<p>Child Welfare and Poverty</p> <p>Presenters: Diane Redleaf, JD & Ruth White, MS</p>			



Child Welfare Law Specialist Certification



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Congratulations to Our Newest Child Welfare Law Specialists!

(November 2019 – February 2020)

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 MCDONOUGH, GA

Meredith Alexander, JD, CWLS

Children's Law Center of California
 MONTEREY PARK, CA

Justin Balzer, JD, CWLS

Bismarck-Mandan Public Defender's Office
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Cynthia Brandon, JD, CWLS

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 KLAMATH, CA

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Washoe Legal Services
 RENO, NV

Catherine Enright, JD, CWLS

Bonner County Public Defender's Office
 SANDPOINT, ID

Matthew Felder, JD, CWLS

Children's Law Center of California
 MONTEREY PARK, CA

Kelsey Galanter, JD, CWLS

Children's Law Center of California
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Andrea Goodman, JD, CWLS

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Rebecca Ingerman, JD, CWLS

Children's Law Center of California
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Talia Nurse, JD, CWLS

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DeKalb County Child Advocacy Center
 DECATUR, GA

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CWLS Now Eligible for Deep Discount on NACC's Red Book Training Course

As an added CWLS benefit, NACC is now offering registration for the online Red Book Training Course at a 50% discount for CWLS only. Whether you have been practicing for decades or just a few years, it's important to brush up on the fundamentals every so often — and stay on top of your CLEs (accredited in Colorado for 8 hours total including 1 ethics credit).

The spring course runs from March 4th through April 15th, and registration is available until April 15th. (Missed a session? No problem — you can always catch up on the recordings at your leisure.) [View the syllabus and schedule here.](#)

The registration fee is \$200 for NACC members and \$275 for nonmembers, but all CWLS can now register for \$100. Registration includes access to all the session recordings for six months (until July 31st). [Register here!](#) (Make sure you are logged into your profile when you register in order to get the CWLS discount.)

For more information, please see the Training section of this issue.

2020 CWLS Exam Season Now Open!

All CWLS applicants who have not yet passed the exam should have recently received an email with instructions for how to schedule and download the 2020 CWLS exam.

Practicing social distancing? Not a problem! The CWLS exam can be taken from the comfort of your own home at a date and time of your choosing — no need to go to a testing center or facility. The exam is proctored remotely. All you need is a computer, an internet connection, and a webcam with audio. Now is a great time to fit in some studying and tackle this hurdle.

As a reminder, there is no additional exam fee required if you are taking it for the first time. (A retake fee does apply for subsequent attempts.)

Have exam-related questions? Much more information can be found in our [Exam FAQs](#) including how to prepare and what to expect on exam day. We highly recommend that you review these FAQs whether you have questions or not.

As always, please contact Certification@NACCchildlaw.org with any additional questions about the exam or your application status.

CWLS Application Pricing

NACC Members - \$375 / Non-Members - \$500

The application fee includes the exam and a copy of [Child Welfare Law and Practice, 3rd Edition](#) (the Red Book). ■

National Association of Counsel for Children

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The National Association of Counsel for Children is dedicated to advancing the rights, well-being, and opportunities of children impacted by the child welfare system through high-quality legal representation.

Promoting Excellence

Building Community

Advancing Justice

The Guardian is an NACC publication.
Kristen Pisani-Jacques, Editor

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