

Press Release

Most States Fail to Protect the Legal Rights of Children in Foster Care, New Study Finds

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[WASHINGTON](#), April 24 /PRNewswire-USNewswire/ -- Nearly half of U.S. states fail to provide legal representation for abused and neglected foster children, leaving them without a voice during judicial proceedings that profoundly impact their futures, a new study found. The peer-reviewed study - A Child's Right to Counsel. First Star's National Report Card on Legal Representation for Children - was released today by First Star, a leading national child advocacy organization.

The first-of-its-kind study, released at a [Congressional](#) briefing on Capitol Hill, found "glaring anomalies" in how states protect the legal rights of foster children, leading to substandard levels of service and unacceptable outcomes in most states. Fifteen states received failing grades and six more received D's. Only five states received A's.

"Fragmented standards result in fractured lives," said Peter Samuelson, President and Founder of First Star. "These children are already vulnerable emotionally, and in many cases abused physically. The foster care system should protect their [legal rights](#), provide the best possible care, and move them quickly to nurturing and permanent homes. When children enter the court system without appropriate legal representation, as is often the case, they are already at great disadvantage."

First Star assembled leading national child welfare experts to establish guiding principles for a child's [right to counsel](#) and develop a grading system based on each principle. Each state's laws regarding representation for abused and neglected children were analyzed and the states were graded on a 100-point scale based on statutes, court rules, and practice. To view a copy of the report, visit <http://www.firststar.org/>.

An estimated 70 percent of children entering the dependency [system](#) end up in long-term foster care until they either age out of the system or are adopted, according to a 2002

study conducted by Bob Fellmeth Esq., Director of the Children's Advocacy Institute at the [University of San Diego](#) Law School. For many of these children, the system is a revolving door of [foster homes](#) and court proceedings.

Joined by Court TV's Star Jones Reynolds, actor Derek Luke, and former foster youth Heather Wilder, First Star today launched a national Campaign for a Child's Right to Counsel to encourage [Congress](#) and the states to guarantee legal representation for children in abuse, neglect, and dependency cases, and create [uniform](#) national standards for quality.

"Our objective is to improve the lives of abused and neglected children by strengthen the laws that guarantee them effective legal representation," First Star CEO Deborah Sams said. "Experts and practitioners across the country agree that children who are represented by well-trained, client directed attorneys in dependency hearings receive the best care and have a much stronger chance for success."

The goals of the Campaign include:

- Guarantee [Attorneys](#) for Children

Require any state receiving federal funds to guarantee trained attorneys for all children in dependency and foster care proceedings

- Develop a Set of Required Standards of Practice

Require any state receiving federal funds to adopt standards of practice for such attorneys.

- Create Federal Grant Programs for Legal Representation

Create a federal grant program to support establishment of university-based multidisciplinary curricula to educate and train child attorneys and other professionals serving abused and neglected children.

- Establish Case Load Limits

Require that states using federal money maintain reasonable limits on the number of children each attorney is assigned so as to ensure adequate representation by an attorney devoted to and familiar with the case.

- Provide Adequate Compensation

Provide a program of federal matching funds to support appropriate [compensation](#) for attorneys in child abuse/neglect/dependency cases, conditioned on compliance with mandated standards of practice, caseload controls, and representation at all hearings

"These cases directly affect, and may permanently alter, the relationship between parent and child," said Professor Katherine Federle, Director of the Justice for Children Project at the Moritz College of Law, Ohio [State University](#). "The child must have a voice in these proceedings, one that is clear, direct, and unimpeded by the views, whims or biases of others. The lawyer stands as that person for the child. This not only makes sense, but it is both a moral necessity and a constitutional imperative."

Under the 1974 Child Abuse and Neglect Prevention and Treatment Act, all 50 states and the District of Columbia are required to provide foster children with a legal guardian, but the law left it up to the states to determine who that should be. As a result, states often use different statutory language and mandated roles for child representation, which leads to unequal standards across the country.

There is no established legal authority defining the role attorneys should play in representing children, the type of training that will sufficiently prepare them, or the duties and responsibilities entrusted to them. In July 2005, for the first time in U.S. legal history, in *Kenny A. v. Purdue*, a federal judge in Georgia ruled that abused and neglected children have a constitutional and statutory right to effective legal representation throughout their foster care experience.

"I am proud to work in a state that recognizes that children are entitled to a voice in child protection proceedings. I look forward to the day when all state governments acknowledge that that voice should be the child's own," said Carolyn Signorelli, Chief Child Protection Attorney for the State of Connecticut. "These children have a right to the same zealous and competent legal advocacy that any other citizens would want for themselves and their own children." Connecticut is one of only five states that received an "A" in the study.

"I was involved in proceedings and because of the Children's Attorney Project in Clark County, I had a [lawyer](#)," said former Nevada foster youth Heather Wilder. "When I think back on that period I realize how powerless I would have been without a lawyer. Many children who do not have lawyers are still powerless. I got lucky, but many kids don't."

About First Star

First Star is a leading national public charity dedicated to improving the lives of America's abused and neglected children. First Star, a 501(c) (3), works to change the child welfare system from one of abuse and neglect to one of protection and support through a nonpartisan, multidisciplinary approach to foster collaborative action to benefit children. <http://www.firststar.org/>

NATIONAL GRADES BY STATE

First Star Study on a Child's Right to Counsel

Top Score 100

Grade Jurisdiction Form of Representation

Grade State Type of
Representation

D 65 Alabama Attorney GAL
F 32 Alaska GAL
B 84 Arizona Attorney
B 86 Arkansas Attorney ad Litem
C 73 California Attorney GAL
C 70 Colorado Attorney GAL
A 94 Connecticut Attorney
F 48 Delaware CASA or Attorney GAL
B 80 District of Columbia Attorney GAL
F 39 Florida GAL
B 81 Georgia Attorney
F 33 Hawaii GAL
F 28 Idaho GAL

F 45 Illinois GAL
F 48 Indiana GAL
D 60 Iowa Attorney and GAL
B 86 Kansas Attorney GAL
D 60 Kentucky Attorney GAL
A 96 Louisiana Attorney
F 31 Maine GAL or CASA
B 88 Maryland Attorney
B 81 Massachusetts Attorney
C 73 Michigan Attorney GAL
C 75 Minnesota GAL or Attorney
A 90 Mississippi Attorney
F 47 Missouri GAL
D 69 Montana Attorney
C 73 Nebraska Attorney GAL
F 31 Nevada GAL
F 35 New Hampshire GAL
B 89 New Jersey Attorney Law
Guardian
B 82 New Mexico Attorney GAL or
Attorney
A 94 New York Attorney Law
Guardian
B 83 North Carolina Attorney GAL or
Attorney and GAL
F 35 North Dakota GAL
C 74 Ohio Attorney
B 84 Oklahoma Attorney
D 60 Oregon CASA or Attorney
C 79 Pennsylvania Attorney GAL
F 25 Rhode Island GAL or CASA
C 70 South Carolina Attorney
F 54 South Dakota Attorney
B 87 Tennessee Attorney GAL
B 87 Texas Attorney ad Litem
C 78 Utah Attorney GAL
C 79 Vermont Attorney
B 83 Virginia Attorney GAL
F 31 Washington GAL
A 96 West Virginia Attorney GAL
D 64 Wisconsin Attorney GAL
C 78 Wyoming Attorney GAL

GAL- Guardian ad Litem CASA - Court-Appointed Child Advocate

Source: First Star