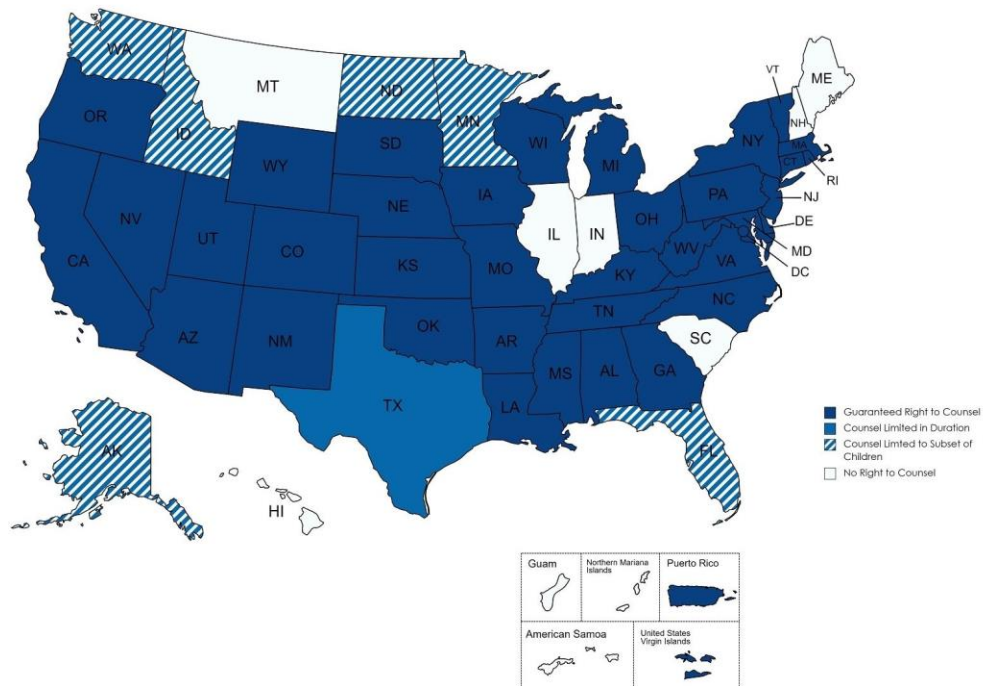


## State Models of Children’s Legal Representation

NACC is committed to tracking the changing landscape of children’s legal representation around the country. This working draft reflects current state models of representation based on statute or practice. The graphic shows which states guarantee appointment of counsel for all children. The chart which follows provides citations and highlights variations *within* and across states, including updates resulting from 2021 legislation. In many cases, stakeholders were interviewed to obtain the most accurate information about current practice. If you would like to supply updated information to enhance this chart, please contact [Policy@NACCchildlaw.org](mailto:Policy@NACCchildlaw.org).



States that **do not guarantee right to counsel** for all children involved in dependency proceedings:  
**Alaska, Florida, Hawaii, Idaho, Illinois, Indiana, Maine, Minnesota, Montana, New Hampshire, North Dakota, South Carolina, Texas  
 Washington.** A glossary of terms can be found at the end of this document.

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
Alabama	Yes, by statute <sup>1</sup>	Limited	Attorney Best Interest	<a href="#">Ala. Code §12-15-102(10)</a> ;  <a href="#">Ala. Code §12-15-304</a>
Alaska	No	Discretionary (Mandatory for Select Case Types)	<ul style="list-style-type: none"> <li>• Lay GAL (Non-Attorney)</li> <li>• Select</li> </ul>	Children in Need of Aid Rules and Procedures Rule 12.1 (Effective October 2022)
Arizona	Yes, by statute	Mandatory	Expressed/Stated-Interest (Updated 2021 Legislative Session)	Ariz. Rev. Stat. § 8-221 - 2021 Legislation <a href="#">SB 1391</a> required the appointment of Expressed/Stated-Interest legal counsel in all dependency cases
Arkansas	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Ark. Code Ann. § 9-27-316 (f)(1) and (5)</a>
California	Yes, in practice	Mandatory	<ul style="list-style-type: none"> <li>• Attorney Best Interest</li> <li>• Hybrid</li> </ul>	<a href="#">Cal. Welf. &amp; Inst. Code § 317 (c)(1-2)</a> <a href="#">Cal. Welf. &amp; Inst. Code § 317 (e)(1-3)</a>
Colorado	Yes, by statute	Mandatory	Split: Client-Directed for age 12+; Attorney-Directed: Best Interest for children age 11 and under	<a href="#">C.R.S.A. § 19-3-203</a> (Updated by <a href="#">HB 22-1038</a> (2022)) <a href="#">C.R.S.A. § 19-7-308</a> (Updated by <a href="#">HB 21-1094</a> (2021))
Connecticut	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">Conn. Gen. Stat. § 46b-129a (2)(c)</a> and <a href="#">§ 46b-135</a>
District of Columbia	Yes, by statute	Mandatory	Hybrid	<a href="#">D.C. Code § 16-2304 (a)</a>
Delaware	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Del. Code Ann. tit. 29, § 9007A (c)</a>
Florida	No	Discretionary (Mandatory for Select Case Types)	<ul style="list-style-type: none"> <li>• GAL Multidisciplinary Team consisting of trained volunteer (or staff member, contract or pro bono attorney), child welfare professional, and attorney representing statewide GAL Program.</li> <li>• Select</li> </ul>	<a href="#">Fla. Stat. § 39.01305(3)</a> , <a href="#">§ 39.822</a>

<sup>1</sup> RTC guaranteed by statute, but in practice doesn't continue after permanent custody awarded to state agency.

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
Georgia	Yes, by statute	Mandatory	<ul style="list-style-type: none"> <li>Hybrid</li> <li>Varied Representation</li> </ul>	<a href="#">O.C.G.A. § 15-11-103</a> ; <a href="#">O.C.G.A § 15-11-104 (b)</a>
Hawaii	No	Discretionary	<ul style="list-style-type: none"> <li>Lay-GAL (Non-Attorney)</li> <li>Expressed/Stated-Interest</li> </ul>	<a href="#">Haw. Rev. Stat. Ann. § 587A-3.1(b) (4)</a>
Idaho	No	Limited	Split: Lay-GAL's for children 11 and under; Expressed/Stated-Interest age 12 and up	<a href="#">Idaho Code § 16-1614</a>
Illinois	No	Limited (Counsel is not required if a CASA is appointed and represented by counsel)	<ul style="list-style-type: none"> <li>Hybrid (Cook County)</li> <li>Lay-GAL (Non-Attorney)</li> <li>Varied Access to Counsel</li> </ul>	<a href="#">705 Ill. Comp. Stat. Ann. 405/1-5 (1)</a>
Indiana	No	Discretionary	<ul style="list-style-type: none"> <li>Lay-GAL (Non-Attorney)</li> <li>Varied Access to Counsel</li> </ul>	<a href="#">Ind. Code Ann. § 31-32-4 (2)(b)</a>
Iowa	Yes, by statute	Mandatory	Hybrid	<a href="#">Iowa Code § 232.89</a>
Kansas	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">K.S.A. § 38-2205(a)</a>
Kentucky	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">KRS § 620.100</a>
Louisiana	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">LSA-Ch.C. Art. 607</a> ; <a href="#">LSA-Ch.C. Art. 551</a>
Maine	No	Discretionary	<ul style="list-style-type: none"> <li>Attorney Best Interest</li> <li>Lay-GAL (non-Attorney)</li> <li>Expressed/Stated-Interest</li> </ul>	<a href="#">22 M.R.S. § 4005(b)</a>
Maryland	Yes, in practice	Mandatory	<ul style="list-style-type: none"> <li>Expressed/Stated-Interest (when client determined to have <a href="#">considered judgement</a>)</li> <li>Attorney Best Interest when client lacks considered judgement)</li> </ul>	<a href="#">Md. Code, Courts and Judicial Proceedings, § 3-813 (d)</a>

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
Massachusetts	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">M.G.L.A 119 § 29</a>
Michigan	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">MCLS § 722.630</a> ; <a href="#">MCLS § 712A.17d</a>
Minnesota	No	Limited	Split: Lay-GAL's for children 9 and under; Expressed/Stated-Interest age 10 and up	<a href="#">Minn. Stat. § 260C.163 Subd. 3</a>
Mississippi	Yes, by statute	Mandatory	Varied Representation	<a href="#">Miss. Code Ann. §43-21-121 (1) and (4)</a>
Missouri	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Mo. Ann. Stat. § 211.211</a>
Montana	No	Discretionary	<ul style="list-style-type: none"> <li>Lay-GAL (Non-Attorney)</li> <li>Varied Access to Counsel</li> </ul>	<a href="#">Mont. Code Anno., § 41-3-425(3)(b)</a> ; <a href="#">Mont. Code Anno., § 41-3-112</a> 2021 Legislation <a href="#">HB 90</a> requires the appointment of legal counsel for children at the initial hearing in all dependency cases, but is not effective until July 1, 2023.
Nebraska	Yes, by statute	Mandatory	Hybrid	<a href="#">NE ST § 43-272</a>
Nevada	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">Nev. Rev. Stat. Ann. § 432B.420(2)</a> ; <a href="#">Nev. Rev. Stat. Ann. § 128.100(2)</a>
New Hampshire	No	Discretionary	<ul style="list-style-type: none"> <li>Attorney Best Interest</li> <li>Lay-GAL (non-attorney)</li> </ul>	<a href="#">N.H. Rev. Stat. § 169-C:10</a>
New Jersey	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">N.J. Stat. § 9:6-8.23</a> ; <a href="#">NJ Stat. §9:6-8.21(d))</a>
New Mexico	Yes, by statute	Mandatory	Split: Expressed/Stated-Interest for age 14 and up; Attorney Best Interest for children age 13 and under	<a href="#">N. M. S. A. 1978, § 32A-1-7.1</a> ; <a href="#">N. M. S. A § 32A-4-10-</a>
New York	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">NY CLS Family Ct Act § 241</a>
North Carolina	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">N.C. Gen. Stat. § 7B-601</a>

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
North Dakota	No	Limited	<ul style="list-style-type: none"> <li>Expressed/Stated-Interest</li> <li>Lay-GAL (non-attorney) (Updated in 2021 Legislative Session)</li> </ul>	<a href="#">N.D. Cent. Code, § 27-20.2-12</a>  (2021 Legislation <a href="#">HB 1035</a> (2021) Guarantees right to counsel for children of sufficient age and competency to assist counsel
Ohio	Yes, by statute <sup>2</sup>	Mandatory	<ul style="list-style-type: none"> <li>Attorney Best Interest</li> <li>Hybrid</li> </ul>	<a href="#">ORC 2151.352</a>  NOTE: <i>In re Williams</i> , 805 N.E.2d 1110, 1111, 1113 (Ohio 2004): The Williams Court explained that the juvenile <u>may</u> have a right to appointed counsel separate from that provided to his or her parents "in certain circumstances". The court presiding over the proceeding has the authority to make a case-by-case determination whether independent counsel for the juvenile is necessary, based on the maturity of the juvenile and whether the juvenile's guardian <i>ad litem</i> can serve as both guardian <i>ad litem</i> and attorney without conflict.
Oklahoma	Yes, by statute <sup>3</sup>	Mandatory	<ul style="list-style-type: none"> <li>Expressed/Stated-Interest</li> <li>Attorney Best Interest (when client has diminished capacity)</li> </ul>	<a href="#">10A Okl. St. § 1-4-306</a>
Oregon	Yes, by statute	Mandatory	Expressed/Stated-Interest	<a href="#">O.R.S. § 419B.195</a>
Pennsylvania	Yes, by statute	Mandatory	Hybrid	<a href="#">42 Pa.C.S.A. § 6337.1</a>
Rhode Island	Yes, in practice	Mandatory	Attorney Best Interest	<a href="#">Gen.Laws 1956, § 40-11-14</a>
South Carolina	No	Discretionary	<ul style="list-style-type: none"> <li>Lay-GAL (non-attorney)</li> <li>Expressed/Stated-Interest</li> </ul>	<a href="#">S.C. Code Ann. § 63-7-1620</a>
South Dakota	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">S.D. Codified Laws § 26-8A-18</a>

<sup>2</sup> Ohio: Right to counsel guaranteed by statute but not in practice.

<sup>3</sup> Oklahoma: Right to counsel guaranteed by statute but not in practice.

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
Tennessee	Yes, by statute	Mandatory	Best Interests	<a href="#">Tenn. Code Ann. § 37-1-126</a>
Texas	No	Limited (duration of appointment)	<ul style="list-style-type: none"> <li>Expressed/Stated-Interest</li> <li>Hybrid</li> </ul>	<a href="#">Tex. Fam. Code § 107.012</a> <a href="#">Tex. Fam. Code § 107.016</a> (Updated by <a href="#">HB 1315</a> (2021))
Utah	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Utah Code Ann. § 78A-6-902(2); Utah Code Ann. § 78A-6-317</a>
Vermont	Yes, by statute	Mandatory	<ul style="list-style-type: none"> <li>Expressed/Stated-Interest</li> </ul>	<a href="#">33 V.S.A. § 5112</a>
Virginia	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Va. Code Ann. § 16.1-266</a>
Washington	No	Limited/Discretionary	<ul style="list-style-type: none"> <li>Split- Lay GAL<sup>4</sup> for children under 8; Expressed/Stated-Interest age 8 and up</li> <li>Select (0-8 when TPR filed)</li> <li>Select (All children 6 months post-TPR)</li> <li>Select (When youth is in extended foster care)</li> <li>Select (When youth files a petition to reinstate parental rights)</li> </ul> (Updated in 2021 Legislative Session)	Wash. Rev. Code Ann. § 13.34  <a href="#">HB1219</a> (2021) <sup>2</sup>
West Virginia	Yes, by statute	Mandatory	Hybrid	<a href="#">W. Va. Code § 49-4-601</a>
Wisconsin	Yes, by statute	Mandatory	Split: Attorney Best Interest for children under 12; Expressed/Stated-Interest age 12 and up	<a href="#">Wis. Stat. Ann. § 48.23 (3m)</a>
Wyoming	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">Wyo. Stat. Ann. § 14-3-211</a>

<sup>4</sup> The 2015-2016 monitoring report published by The Access to Counsel Project at the Children and Youth Advocacy Clinic, University of Washington School of Law demonstrates that 23% of children in observed hearings in Washington were not appointed a lay GAL or attorney, despite a federal mandate. Additionally, Washington’s Juvenile Court Rule 9.2 requires an attorney appointment when a GAL is not appointed.

STATE	RTC Guaranteed?	SCOPE OF REPRESENTATION	REPRESENTATION MODEL FOR CHILDREN AND YOUTH	RELEVANT STATE STATUTE
Puerto Rico	Yes, by statute	Mandatory	Children appointed a Family Advocate (Individual represents the child and the Commonwealth in the pertinent actions ensuing from investigations conducted on alleged child abuse pursuant to the effective legislation on that matter)	<a href="#">PR ST T. 8 § 447a</a>
US Virgin Islands	Yes, by statute	Mandatory	Attorney Best Interest	<a href="#">VI ST T. 5 § 2542</a>
American Guam	No	Discretionary	Lay-GAL (non-attorney)	<a href="#">GU ST T. 19, § 13308</a>
Northern Mariana Islands	No	Discretionary	Lay-GAL (non-attorney)	<a href="#">Commonwealth Code Tit. 8, §§ 1982; 1983</a>

## Glossary of Terms

NACC recognizes that the terms used here may not be the same terms used locally, but has endeavored to develop consistent terminology for the purposes of this document.

Term	Description
Practice	Customary action in a jurisdiction.
Statute	Legal mandates found in the codification of state law
Mandatory	Right to counsel (RTC) guaranteed to all children during all stages of the dependency proceeding.
Discretionary	The decision to appoint legal counsel for children involved in child welfare proceedings is left to the discretion of the hearing officer
Limited	Age/Competency: Legal counsel appointed to children of a certain age or competency. Or Duration: Hearing officers have discretionary authority to appoint or remove legal counsel at a certain phase of case (i.e. when the government agency has permanent custody of a child or termination of parental rights is granted)
Expressed/Stated-Interest	Jurisdiction requires a Expressed/Stated-Interest lawyer owing the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client. Child's counseled-expressed wishes guide the representation. May also be described as a "client-directed" model of legal representation. If the child is pre-verbal or has diminished capacity making her unable to direct the representation, the attorney proceeds according to the rule, ethics, and practice standards of their jurisdiction.
Attorney Best Interest	Jurisdiction requires a lawyer charged with representing the best interest of the child, as determined by the advocate who is responsible for conducting an independent investigation to determine what is in the child's best interest. Advocates for a child's best interest are not bound by the expressed wishes or litigation objectives of the child, though in most jurisdictions have a concomitant responsibility to inform the court of the child's wishes.
Split	Jurisdiction permits either a lay volunteer, Expressed/Stated-Interest attorney, or attorney-directed/ best interest model of representation depending on a specific factor (Ex. child's age).
Select	Jurisdiction mandates legal counsel for children in select circumstances usually based on case type (Ex. Florida's statute provides that attorneys must be appointed to children who are diagnosed with a developmental disability, victims of human trafficking, placed in skilled nursing or residential treatment facilities, or who decline prescribed psychotropic medication.)
Varied Representation	Children and youth have a statutory right to counsel, but the model of representation may vary by jurisdiction. (Ex. In Georgia, right to counsel is guaranteed to all children, but the model of representation varies by county)
Varied Access to Counsel	State statute or rule does not guarantee children and youth the right to counsel, but in practice, certain jurisdictions operating under local rule or hearing officers exercising discretion may appoint legal counsel at their discretion.
Hybrid	Jurisdiction permits one individual to serve in the dual role of Expressed/Stated-Interest attorney and guardian <i>ad litem</i> . If a conflict arises between the attorney's duty to a child and the attorney's determination of what is in the child's best interest, the role of guardian <i>ad litem</i> and attorney are separated.