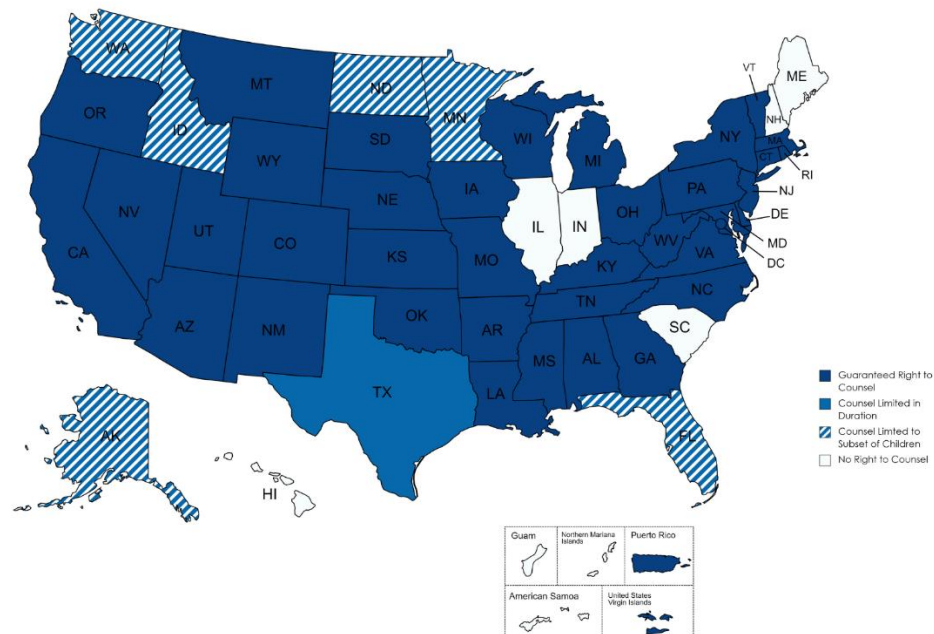


State Models of Children’s Legal Representation

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. 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.



States that **do not guarantee right to counsel** for all children involved in dependency proceedings:
Alaska, Florida, Hawaii, Idaho, Illinois, Indiana, Maine, Minnesota, 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 ¹	Limited	Attorney Best Interest	Ala. Code §12-15-102(10) ; Ala. Code §12-15-304
Alaska	No	Discretionary (Mandatory for Select Case Types)	<ul style="list-style-type: none"> • Lay GAL (Non-Attorney) • Select 	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 SB 1391 required the appointment of Expressed/Stated-Interest legal counsel in all dependency cases
Arkansas	Yes, by statute	Mandatory	Attorney Best Interest	Ark. Code Ann. § 9-27-316 (f)(1) and (5)
California	Yes, in practice	Mandatory	<ul style="list-style-type: none"> • Attorney Best Interest • Hybrid 	Cal. Welf. & Inst. Code § 317 (c)(1-2) Cal. Welf. & Inst. Code § 317 (e)(1-3)
Colorado	Yes, by statute	Mandatory	Split: Client-Directed for age 12+; Attorney-Directed: Best Interest for children age 11 and under	C.R.S.A. § 19-3-203 (Updated by HB 22-1038 (2022)) C.R.S.A. § 19-7-308 (Updated by HB 21-1094 (2021))
Connecticut	Yes, by statute	Mandatory	Expressed/Stated-Interest	Conn. Gen. Stat. § 46b-129a (2)(c) and § 46b-135
District of Columbia	Yes, by statute	Mandatory	Hybrid	D.C. Code § 16-2304 (a)
Delaware	Yes, by statute	Mandatory	Attorney Best Interest	Del. Code Ann. tit. 29, § 9007A (c)
Florida	No	Discretionary (Mandatory for Select Case Types)	<ul style="list-style-type: none"> • GAL Multidisciplinary Team consisting of trained volunteer (or staff member, contract or pro bono attorney), child welfare professional, and attorney representing statewide GAL Program. • Select 	Fla. Stat. § 39.01305(3) , § 39.822

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

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Massachusetts	Yes, by statute	Mandatory	Expressed/Stated-Interest	M.G.L.A 119 § 29
Michigan	Yes, by statute	Mandatory	Attorney Best Interest	MCLS § 722.630 ; MCLS § 712A.17d
Minnesota	No	Limited	Split: Lay-GAL's for children 9 and under; Expressed/Stated-Interest age 10 and up	Minn. Stat. § 260C.163 Subd. 3
Mississippi	Yes, by statute	Mandatory	Varied Representation	Miss. Code Ann. §43-21-121 (1) and (4)
Missouri	Yes, by statute	Mandatory	Attorney Best Interest	Mo. Ann. Stat. § 211.211
Montana	Yes, by statute	Mandatory	Expressed/Stated-Interest (Updated 2023 Legislative Session)	Mont. Code Anno., § 41-3-425(2)(b); 2023 Legislation Senate Bill 148 required the appointment of Expressed/Stated-Interest legal counsel in all dependency cases.
Nebraska	Yes, by statute	Mandatory	Hybrid	NE ST § 43-272
Nevada	Yes, by statute	Mandatory	Expressed/Stated-Interest	Nev. Rev. Stat. Ann. § 432B.420(2) ; Nev. Rev. Stat. Ann. § 128.100(2)
New Hampshire	No	Discretionary	<ul style="list-style-type: none"> • Attorney Best Interest • Lay-GAL (non-attorney) 	N.H. Rev. Stat. § 169-C:10
New Jersey	Yes, by statute	Mandatory	Expressed/Stated-Interest	N.J. Stat. § 9:6-8.23 ; NJ Stat. §9:6-8.21(d)
New Mexico	Yes, by statute	Mandatory	Split: Expressed/Stated-Interest for age 14 and up; Attorney Best Interest for children age 13 and under	N. M. S. A. 1978, § 32A-1-7.1 ; N. M. S. A § 32A-4-10-
New York	Yes, by statute	Mandatory	Expressed/Stated-Interest	NY CLS Family Ct Act § 241
North Carolina	Yes, by statute	Mandatory	Attorney Best Interest	N.C. Gen. Stat. § 7B-601

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"> Expressed/Stated-Interest Lay-GAL (non-attorney) (Updated in 2021 Legislative Session) 	N.D. Cent. Code, § 27-20.2-12 (2021 Legislation HB 1035 (2021) Guarantees right to counsel for children of sufficient age and competency to assist counsel
Ohio	Yes, by statute ²	Mandatory	<ul style="list-style-type: none"> Attorney Best Interest Hybrid 	ORC 2151.352 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 ³	Mandatory	<ul style="list-style-type: none"> Expressed/Stated-Interest Attorney Best Interest (when client has diminished capacity) 	10A Okl. St. § 1-4-306
Oregon	Yes, by statute	Mandatory	Expressed/Stated-Interest	O.R.S. § 419B.195
Pennsylvania	Yes, by statute	Mandatory	Hybrid	42 Pa.C.S.A. § 6337.1
Rhode Island	Yes, in practice	Mandatory	Attorney Best Interest	Gen.Laws 1956, § 40-11-14
South Carolina	No	Discretionary	<ul style="list-style-type: none"> Lay-GAL (non-attorney) Expressed/Stated-Interest 	S.C. Code Ann. § 63-7-1620
South Dakota	Yes, by statute	Mandatory	Attorney Best Interest	S.D. Codified Laws § 26-8A-18

² Ohio: Right to counsel guaranteed by statute but not in practice.

³ 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	Attorney Best Interest	Tenn. Code Ann. § 37-1-126
Texas	No	Limited (duration of appointment)	<ul style="list-style-type: none"> Expressed/Stated-Interest Hybrid 	Tex. Fam. Code § 107.012 Tex. Fam. Code § 107.016 (Updated by HB 1315 (2021))
Utah	Yes, by statute	Mandatory	Attorney Best Interest	Utah Code Ann. § 78A-6-902(2); Utah Code Ann. § 78A-6-317
Vermont	Yes, by statute	Mandatory	<ul style="list-style-type: none"> Expressed/Stated-Interest 	33 V.S.A. § 5112
Virginia	Yes, by statute	Mandatory	Attorney Best Interest	Va. Code Ann. § 16.1-266
Washington	No	Limited/Discretionary	<ul style="list-style-type: none"> Split- Lay GAL⁴ for children under 8; Expressed/Stated-Interest age 8 and up Select (0-8 when TPR filed) Select (All children 6 months post-TPR) Select (When youth is in extended foster care) Select (When youth files a petition to reinstate parental rights) (Updated in 2021 Legislative Session)	Wash. Rev. Code Ann. § 13.34 HB1219 (2021) ²
West Virginia	Yes, by statute	Mandatory	Hybrid	W. Va. Code § 49-4-601
Wisconsin	Yes, by statute	Mandatory	Split: Attorney Best Interest for children under 12; Expressed/Stated-Interest age 12 and up	Wis. Stat. Ann. § 48.23 (3m)
Wyoming	Yes, by statute	Mandatory	Attorney Best Interest	Wyo. Stat. Ann. § 14-3-211

⁴ 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)	PR ST T. 8 § 447a
US Virgin Islands	Yes, by statute	Mandatory	Attorney Best Interest	VI ST T. 5 § 2542
American Guam	No	Discretionary	Lay-GAL (non-attorney)	GU ST T. 19, § 13308
Northern Mariana Islands	No	Discretionary	Lay-GAL (non-attorney)	Commonwealth Code Tit. 8, §§ 1982; 1983

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.