

# Pre-Petition Legal Representation: How Lawyers Can Support Families to Prevent Unnecessary Family Separation

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**Structural  
inequities  
can drive  
CPS/court  
involvement**

- Income inequality
- Housing instability
- Food insecurity
- Unemployment and underemployment
- Incarceration
- Access to affordable, quality health care
- Educational opportunity
- Access to community -based resources

# The Research

- “[H]ousing instability [was] . . . positively associated with maternal stress, and, through that pathway, in increases of both abuse and neglect risk as well.” (Warren et al, 2015)
- Statistically significant correlation between “increases in child health care coverage rates, including both private coverage and Medicaid coverage, and decreases in child physical abuse.” (McCray, 2018)
- Neighborhood poverty was “a risk factor for children and that it [was] associated with all types of child maltreatment.” (Drake and Pandey, 1996)
- Children who attended Early Head Start programs “had significantly fewer child welfare encounters between the ages of five and nine years than did children in the control group.” (Cohen et al, 2015)
- Poverty and neighborhood disadvantage are “**the most consistent and strongest**” predictors of CPS involvement (Cameron and Freymond, 2006)

# The CPS Process is Traumatic

- Fear
- Anxiety
- Lack of Trust

“When education, healthcare, mental health and social service systems channel families to state surveillance that threatens child removal, they may distance families from the systems tasked with assisting them.” (Fong 2020)



CONTINUUM OF HIGH QUALITY LEGAL ADVOCACY TO SUPPORT CHILD AND FAMILY WELL-BEING

# Wayne County's Pre - Petition Program



# Existing Models of Pre-Petition Legal Advocacy Programs


## Distinguishing program design features:

- ❖ Referral Source
  - Agency
  - Community
    - Mandated reporters (hospital, school)
    - Public/Self-referral
      - Hotline
  - Courts
  - Other stakeholders (service provider org's, defender offices)
  - Law School Clinics
- ❖ Scope of Representation / Practice
  - Legal services: DV, housing, public benefits, delinquency, school discipline, special education, criminal, immigration, other
  - Continuation of representation post-petition
- ❖ Client
  - Parent(s)
  - Kinship caregiver
- ❖ Organizational home (?)
  - E.g., school-based, MLP/hospital/community clinic

# The Multidisciplinary Model







What is it?

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- LMSW/BSW, LPC's, parent advocates/partners allies, other professionals working in collaboration as part of a legal defense team

# Why does it matter?

Enhances practitioner skill sets

Widens ability to meet holistic needs

Enhances client communication

Accountability

Share the wins and losses

Greater investment

Plurality of vantage points

# Social Work Functions

Be a bridge

Help understand client goals

Assess parent/family strengths and areas for growth

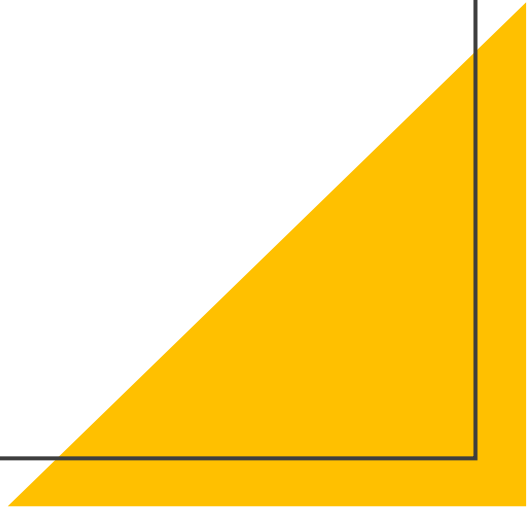
Trauma informed and clinical lens to advocacy

Shared development of shared strategy to prevent a filing

Client communication

Broad Skillset—generalized practitioners

Safety Planning



# Pre-petition Social Work Roles for Family reunification/ preservation

Attend conferences, admin. mtgs

Prepare clients for self advocacy with systems

Trouble shoot(access to services, engagement)

Advocacy to ensure timely reasonable efforts from the dept(referrals, exploring placement resources, transportation, etc)

Expanding referral sources for child welfare involved families

Crisis intervention and safety planning

Focus on relationship building and resiliency

# Interdisciplinary Practice/Fluid Roles

## LEGAL

- court
- motions
- administrative hearings
- legal advice
- court prep
- client/provider communication
- problem solving

## LEGAL & SOCIAL WORK

- client/provider communication
- information gathering and sharing
- trauma informed support
- administrative mtgs
- assessing safety
- problem solving
- generalized practitioners

## SOCIAL WORK

- advocacy
- socio-emotion/support
- psycho-education
- expertise on bio-psycho-social domains
- empowerment
- problem solving
- generalized practitioners

# Scope of representation

## Common representations:

- Safety plans, administrative (registry) appeals
- Custody (adoption, guardianship, divorce, parenting plans)
- Domestic violence (orders of protection)
- Public benefits
- Estate planning
- Housing
- Tax
- Other civil legal issues (e.g., Application for SSN or insurance)
- Criminal: warrants, expungement
- Representation in dependency proceedings
- Immigration
- Reentry
- Employment
- Tax
- Health

# Funding Sources

## Federal Funding

### **Title IV-E Funds:**

- <https://www.naccchildlaw.org/page/TitleIVforLegalRepresentation>

### **Title IV-B Funds:**

- Kinship navigator funds

### **Additional Federal Funding:**

- Medicaid
- TANF block grants
- Family Support Services (45 CFR 1357.15(r))
- Health Resources Service Administration (HRSA (<https://medical-legalpartnership.org/need/>))
- Title V Maternal and Child Health Services Block Grant
- Substance Abuse Mental Health Services Administration (SAMHSA) block grants
- Victims of Crime Act Victim Assistance Formula Grant Program
- Community Development Block Grant (CDBG)
- Federal grants

## **State Funding**

## **Private Foundation**

## **Grants**

## **Contracts w/ child welfare agencies or legal aid offices**

## **Donations**



### Children's Bureau

- *"Access to an attorney or multidisciplinary legal team that provides civil legal advocacy can empower, support, and restore agency to parents, caregivers, young people, and individuals to help them maintain well-being, preserve family integrity, and promote economic mobility. Civil legal advocacy can also be preventive, especially in the child welfare context, serving as a tool to stop unnecessary family separation."*

### Family Justice Initiative

- *"FJI recommends jurisdictions consider creating systems of representation that promote attorney involvement pre-removal when appropriate."*

### ABA Standards & NCJCFJ Enhanced Resource Guidelines

- *Include pre-petition representation (if permitted by jurisdiction) in general duties of parents' attorneys*

### Casey Family Programs

- *Preventive legal advocacy resource page:*  
<https://www.casey.org/preventive-legal-advocacy-topic-page/>