



## How is pre-petition legal representation critical to the continuum of legal advocacy?

[Pre-petition legal representation](#) involves the provision of legal services to families after they have come to the attention of the child protection agency but before a dependency petition (request to remove a child due to alleged maltreatment) has been filed in family court.<sup>1</sup> The goal of pre-petition representation is to prevent the unnecessary and traumatic separation of children from their families, particularly when poverty-related issues are conflated with neglect. Far too many families lack adequate income, housing, or education because of systemic inequities that have left opportunities scarce in certain communities, particularly communities of color. Providing legal representation before a dependency petition is filed is one way to make sure families have the support and resources they need to keep their children safely with them.

Pre-petition legal representation programs offer parents legal and social work advocacy to address a range of challenges, including: custody and divorce; orders of protection; [safe and affordable housing](#); public benefits; guardianship; special education; and other issues. During pre-petition legal advocacy, attorneys work with child protection agencies and families to address inequities and strengthen the social determinants of health. Early legal representation can make a significant difference for families by stopping an unjust eviction or attending to unstable living conditions; guiding families through the complicated process of accessing government benefits and challenging improper denials; advocating for educational opportunities; and supporting families during the child protection investigation process.

Pre-petition legal representation programs are still emerging — building on the well-established model of civil legal aid — and commonly include the following elements:

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- Referrals from the child protection agency, or referrals from the courts or other community-based agencies.
- A multidisciplinary staffing model, which includes social workers and parent mentors.
- A range of legal expertise (such as housing, education, and immigration) provided with a holistic advocacy approach.
- Multiple funding sources.

Federal, state, and local funding should be utilized to access support for pre-petition legal representation. Available federal funding streams include Medicaid,

Temporary Assistance for Needy Families (TANF), [Title IV-E reimbursement for legal representation](#), and Court Improvement Program funds. State budget appropriations to the child welfare agency or courts could be aligned with the goals of pre-petition legal representation, and pre-petition legal representation also can be supported through local funds generated by Interest on Lawyers Trust Accounts and state bar grants. Other funding options include private foundations that are looking to innovate, demonstrate, and disseminate information about how legal advocacy promotes health and reduces unnecessary reports of suspected maltreatment, as well as university partnerships via law school clinics.

1 Content of this brief was informed by consultation with members of the KM Lived Experience Advisory Team on 5/11/21 and 5/25/21. This team includes youth, parents, kinship caregivers, and foster parents with lived experience of the child welfare system who serve as strategic partners with [Family Voices United](#), a collaboration between FosterClub, Generations United, the Children's Trust Fund Alliance, and Casey Family Programs. Members who contributed to this brief include Keith Lowhorne, Marquetta King, Roberto Partida, and Aliyah Zeien.

This brief was developed by the National Preventive Legal Advocacy Partnership (NPLAP) – a multidisciplinary group of experts in child welfare practice, access to justice, and the legal system – convened by Casey Family Programs. The goal of the NPLAP is improving preventive legal advocacy efforts and contributing to an overall population-based, public health approach to community well-being. Visit [Preventive Legal Advocacy](#) for additional resources and information.

**P** 800.228.3559

**P** 206.282.7300

**F** 206.282.3555

[casey.org](#) | [KMResources@casey.org](mailto:KMResources@casey.org)

