

PREVENTIVE LEGAL ADVOCACY FOR YOUTH CLIENTS

Protecting Rights &
Expanding Opportunities

NACC
National Association
of Counsel for Children

Barton Child Law & Policy Center
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INTRODUCTION

Early legal representation plays a critical role in keeping families together and preventing unnecessary foster care placements. In recent years, many jurisdictions have embraced preventive and pre-petition legal representation for parents as a powerful tool to help stabilize families and reduce system involvement. While less commonly discussed, these legal interventions are also impactful for youth clients at risk of child welfare entanglement. This fact sheet explores key ethical considerations, funding opportunities, and existing models for providing preventive legal advocacy services to young people.

YES, MINORS CAN BE CLIENTS.

It is a common misconception that a child is only able to receive legal representation through judicial appointment. To the contrary, minors do not need court or parental approval to enter attorney-client relationships. Courts have repeatedly held that minors may enter fair and reasonable legal retainers. See, e.g., *Phillips v. Nationwide Mut. Ins. Co.*, 347 So. 2d 465, 466-67 (Fla. 2d DCA 1977). The enforceability of these agreements is determined by the law governing minor's contracts. See *Wagstaff v. Superior Court, Family Ct. Division*, 535 P.2d 1220 (Alaska 1975). As opposed to adult contracts, contracts involving a minor are voidable at the minor's election. *Putnal v. Walker*, 55 So. 844, 845 (Fla. 1911). The privilege to void the contract is personal to the minor, and the other party (the attorney) is bound by the contract, provided the minor adheres to it. *Sample v. Ward*, 23 So. 2d 81, 85 (Fla. 1945).

KEY TAKEAWAYS

- **Preventive Legal Advocacy Keeps Youth Out of the Child Protection System.** Legal representation before crises occur can stabilize youth and prevent unnecessary child welfare involvement.
- **Children Have Independent Legal Rights.** Youth can enter attorney-client relationships without parental or judicial approval, and [have legal rights at the state and federal levels](#).
- **Early Legal Intervention Removes Barriers to Essential Services.** Access to legal representation helps youth secure healthcare, housing, employment, and financial benefits, helping to stabilize their lives and reduce system contact.
- **Housing Instability is a Major Predictor of Child Welfare Involvement.** Legal advocacy for housing and shelter access helps prevent youth homelessness, which is a key driver of child welfare referrals.

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While minors may independently enter attorney-client relationships, questions may arise as to how representation should function. Professional Conduct Rule 1.14 provides clear guidance, emphasizing a lawyer's fundamental duties remain unchanged even when a client's decision-making capacity may be affected by age.

Rule 1.14: Client with Diminished Capacity

- **Text:** "When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client."
- **Comment [1]:** "The normal client-lawyer relationship is based on the assumption that the client. . . is capable of making decisions about important matters. When the client is a minor. . . maintaining the ordinary client-lawyer relationship may not be possible in all respects. . . . Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being." Furthermore, "children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody."

See also: "A child having a different opinion than the lawyer or insisting upon a course of action that the lawyer considers unwise is not diminished capacity. The determination should focus on the decision-making process rather than the decision." – [ABA Model Act on Child Representation](#)

YES, CHILDREN HAVE INDEPENDENT LEGAL RIGHTS BEFORE AGE 18.

Preventive and pre-petition legal advocacy programs help keep families together by addressing upstream civil legal needs and providing CPS investigation defense to mitigate the risk of further system entanglement. Lawyers providing early legal advocacy often offer confidential advice to help clients understand the risks of CPS involvement and ensure that the state meets its obligation to make reasonable efforts to prevent removal. These legal protections reinforce family integrity and serve as critical supports for parents and youth alike, particularly where youth hold distinct rights under applicable state law.

Many young people face legal barriers that threaten their safety, stability, and well-being. Early legal advocacy seeks to address these critical legal needs before crises escalate. While there may be times where a young person's expressed wishes differ from their parent's, [counsel can help bridge this divide by promoting collaboration and interdependence](#), ensuring youth stay connected to their support networks.

KEY TAKEAWAYS CONT.

- **Employment & Financial Security Reduce System Contact.** Ensuring youth can obtain work permits, driver's licenses, and financial benefits like Social Security lowers the risk of instability that can lead to child welfare involvement.
- **Family Stability & Legal Protections Matter.** Legal tools like guardianship, protection orders, and legal emancipation strengthen family arrangements and prevent unnecessary removals.
- **Confidential Legal Counsel Empowers Youth.** Ensuring attorney-client confidentiality allows youth to make informed decisions about their legal rights and services.
- **Title IV-E Funding is Available for Preventive Legal Advocacy.** Recent federal regulations allow Title IV-E funding to support independent legal representation for youth at risk of foster care placement.
- **PLA Should be Youth-Centered and Community-Based.** Experts recommend implementing preventive legal advocacy programs in schools, shelters, libraries, health clinics, and community centers to increase accessibility.

PREVENTIVE LEGAL ADVOCACY

FOR YOUTH CLIENTS

Below, we provide an overview of how specific youth legal services help mitigate child welfare risk factors:

Family Stability & Protection (Guardianship, Protection Orders, Legal Emancipation)

Why It Matters: Many youth live apart from their parents in informal caregiving arrangements that lack legal protections, making them vulnerable to homelessness, abuse, or exploitation.

Legal Barriers: Without legal guardianship, caregivers may be unable to enroll youth in school, authorize medical treatment, or access financial assistance for their care.

Preventive Legal Advocacy Solution:

- **Guardianship & family law remedies:** Legal support helps formalize stable caregiving relationships, preventing youth from entering care.
- **Protection orders:** Legal advocacy protects youth from domestic violence or abuse without requiring system involvement.
- **Legal emancipation:** For youth in unsafe environments who are otherwise able to live on their own, emancipation provides a legal pathway to self-sufficiency.

Impact: Strengthening family stability through legal mechanisms reduces the likelihood of state intervention on the basis of neglect or instability.

Employment & Financial Stability (Work Permits, Driver's Licenses, Social Security Benefits, Immigration Relief)

Why It Matters: Economic insecurity and legal barriers to employment increase the likelihood of youth experiencing homelessness, exploitation, or dependency.

Legal Barriers: Youth often lack the documentation needed for employment, work permits, or driver's licenses. Many also experience denied or delayed access to Social Security benefits they qualify for.

Preventive Legal Advocacy Solution:

- **Work permits & employment rights:** Legal aid helps youth access work opportunities and address employer disputes.
- **Driver's licenses:** Legal assistance ensures youth can obtain ID and transportation necessary for work and school.

PROGRAM HIGHLIGHTS: EXAMPLES OF EXISTING YOUTH-CENTERED PLA MODELS

Legal Counsel for Youth & Children (Washington)

LCYC [provides client-directed legal services](#) for youth ages 11-24 experiencing housing instability.

Program referrals generally come from local youth shelters, schools, behavioral health programs, and directly from youth.

Common types of cases include [guardianship](#), emancipation, child in needs of services petitions, pre-petition FTM engagement, education advocacy, protection orders and SIJS.

LCYC stresses the importance of providing youth with a confidential attorney-client relationship that allows them to seek legal help without the fear of mandated reporting.

Client confidentiality enables youth to be honest about their needs while also giving service providers a trusted referral option where youth can safely access legal support.

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- **Benefits applications:** Legal support can help youth access any needs based public benefits they may be eligible for, helping to stabilize living situations.
- **Social Security appeals:** Legal intervention secures financial benefits for eligible youth, reducing reliance on unstable living situations.
- **Immigration relief:** Youth facing deportation or undocumented status benefit from legal pathways that secure stability.

Impact: Stable employment and financial security prevent youth from falling into unsafe or exploitative situations that might otherwise lead to child welfare involvement.

Access to Healthcare (Medical, Mental & Behavioral Health Services)

Why It Matters: Youth with unmet healthcare needs—whether medical, dental, or mental health-related—are more likely to experience instability and educational disruption, increasing their risk of system involvement.

Legal Barriers: Youth often struggle to access care due to issues like insurance coverage disputes, service denials, or lack of parental consent.

Preventive Legal Advocacy Solution:

- **Medical and dental care:** Legal assistance ensures youth can receive routine care, immunizations, and emergency treatments.
- **Mental health services:** Advocacy for access to counseling, therapy, and substance use treatment helps stabilize youth, reducing crises that could trigger child welfare intervention.
- **Sexual and reproductive health services:** Legal support ensures youth can access contraception, sexual assault evaluations, and abortion services without unnecessary barriers.

Impact: Removing legal barriers to healthcare can improve youth well-being, reducing the risk of health-related neglect cases and emergency system involvement.

Housing & Shelter (Homelessness Prevention, Extended Foster Care, Shelter Access)

Why It Matters: Housing instability is one of the strongest predictors of child welfare involvement. Unaccompanied youth or those in unstable housing arrangements are often forced into survival situations that expose them to legal risks or system involvement.

Children's Law Center of MA, Inc. (Massachusetts)

In addition to representing youth in dependency, Child Requiring Assistance (CRA), and delinquency cases, CLCM provides expressed-wishes representation for children and youth up to age 22 for education advocacy and in seeking certain humanitarian protections for unaccompanied immigrant youth (SIJS).

Particularly for CLCM's unaccompanied youth clients, CLCM works to secure access to education, insurance, health and mental health supports, and further ensures each child has a legal guardian or custodian in place.

Through its medical-legal partnership (MLP), CLCM addresses health and legal challenges to help preserve families and improve outcomes for child patients.

CLCM also integrates Know Your Rights advocacy and outreach into its youth-centered approach.

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Legal Barriers: Youth often face eviction, denial of shelter access, or challenges entering extended foster care programs.

Preventive Legal Advocacy Solution:

- **Housing & shelter services:** Legal aid ensures youth can access housing and emergency shelters or prevent wrongful evictions.
- **Extended foster care re-entry:** For eligible youth, legal assistance ensures continued support rather than aging out to instability.

Impact: Stable housing reduces the risk of homelessness-related child welfare referrals and interventions.

YES, FEDERAL FUNDING IS AVAILABLE.

In May 2024, the U.S. Children’s Bureau published [a new regulation](#) regarding Foster Care Legal Representation. The new rule expands the availability of [title IV-E funding](#) for preventive and pre-petition legal advocacy; this includes independent legal representation of youth if they are a “candidate” for foster care. The rule defines a “candidate” as “a child who is potentially eligible for title IV–E foster care maintenance payments and is at serious risk of removal from their home as evidenced by the title IV–E agency either pursuing the child’s removal from the home or making reasonable efforts to prevent such removal.” [Other federal funding streams](#) are available for legal services for young people who are not candidates for foster care.

HOW DO LIVED EXPERIENCE EXPERTS ENVISION PLA FOR YOUTH?

The [National Advisory Council on Children’s Legal Representation](#) (NACCLR) sees enormous potential in preventative and pre-petition legal representation for youth. NACCLR members envision PLA programs for youth in [schools](#), shelters, libraries, community centers and health clinics. They emphasized the critical nature of confidentiality in the attorney-client relationship, strongly recommending that these programs utilize [the client-directed model](#) of lawyering. Members also highlighted the power imbalance inherent to CPS investigations and noted that access to legal counsel for youth could help alleviate this imbalance by empowering youth to understand their rights, the legal process, and the resources available to help prevent a removal.

Children’s Law Center (California)

CLC-CA provides client-directed representation, Know Your Rights education, safety planning, and pre-petition legal advocacy for young parents who themselves are in foster care.

The program receives referrals for youth parents at risk of child removal and works alongside court-appointed counsel to protect youths’ parental rights.

When additional legal services are needed to support family stability, CLC-CA utilizes in-house specialty teams and collaborates with other legal service providers.

CLC-CA stresses the importance of providing Know Your Rights outreach at group homes and other locations where vulnerable youth can benefit from education around mandated reporting laws and issues affecting safety planning.

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