

NCCRC

National Coalition for a
Civil Right to Counsel



2024 Legislative Session

A Review of Parent & Child RTC Bills

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ABA Children's Lawyers Connect | July 11, 2024

Today's agenda

About us



Summary of bills introduced



Trending or unique topics & bills



Questions / Comments



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NEWS

09/22/2022: All about the tenant right to counsel in Kansas City >>

09/19/2022: New NCCRC/CityHealth report highlights eviction right to counsel; webinar in Sept >>

09/15/2022: Richmond VA eviction reports reveal power of counsel >>

[See More](#) ▾

"If you cannot afford an attorney, one will be appointed for you."

UNLESS you're losing your children, or your home, or your health care, or...

[SEE THE MAP >>](#)

INTERACTIVE MAP

Our interactive map allows you to see recent activity, established rights to counsel, NCCRC involvement, and NCCRC presence by state.

[SEE THE MAP >>](#)

INTERACTIVE MAP



Our interactive map allows you to see recent activity, established rights to counsel, NCCRC involvement, and NCCRC presence by state.

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HAWAII SUPREME COURT SAYS PARENTS HAVE RIGHT TO COUNSEL IN ABUSE/NEGLECT CASES

01/06/2014, Litigation, Abuse/Neglect/Dependency - Accused Parents Key Development

In *in re T.M.*, 319 P.3d 338 (Haw. 2014), the Hawaii Supreme Court ruled that all parents have a right to counsel in abuse/neglect and termination of parental rights proceedings under the due process clause of the Hawaii Constitution. Previously, appointment of counsel was on a case-by-case basis as per statute. Although the petition to the Court argued that the trial court abused its discretion in not appointing counsel for the mother in question, the amicus brief drafted by the NCCRC and filed by the Legal Aid Society of Hawaii, Hawaii ACLU Foundation, and Hawaii Appleseed Center for Law and Economic Justice urged the Court to take up the right to counsel for all parents. In its opinion, the Court relied on the amicus brief's reasoning to find the right to counsel.

For more on the case, including media coverage of the decision, check out our [bibliography section on T.M.](#)

Appointment of Counsel: categorical Qualified: no

 NCCRC recruited the amici, co-drafted the amicus brief, and worked with petitioner on oral argument.

About us

To ensure individuals have a right to *effective* counsel when facing the loss of their **basic** human needs in the civil legal system.

600+ participants & partners across 45 states

How we do it

- **Coordinate and support** CRTC advocacy *nationwide*
- Gather RTC **research** / information, and produce **public materials**
 - One of a kind **status map**
 - Subject specific and state-based memoranda
 - 50-state RTC guide for judges (co-produced with ABA)
- Support for **legislative work** at the federal, state, and local level (ex: testimony)
- **Litigation support**
 - Oral argument prep, consultation, amicus brief drafting and feedback
- **Data analysis/dissemination** (social science research, RTC studies/reports)
- Develop **partnerships** with influential orgs (National League of Cities, Federal Reserve, Salvation Army, CityHealth, etc)
- **Media** relations



Status Map

[close](#)

Florida

In this state, the right to counsel or discretionary appointment of counsel system is *qualified* with respect to Abuse/Neglect/Dependency - Children. This determination is based on the following sources:

- [Florida Legislature establishes right to counsel for certain dependent children](#) (Legislation)

A Florida law enacted in 2024 provides a right to counsel for particularly vulnerable children in dependency proceedings.

[See more about Abuse/Neglect/Dependency - Children](#)
[See info for all subject areas for Florida.](#)

Select a subject area for which to compare all states,

Abuse/Neglect/Dependency - Children





OR

Select a specific jurisdiction to be taken to a separate page with all information for that jurisdiction.

(choose jurisdiction) ▾

Key

Total States

 Categorical Right To Counsel ?	16
 Discretionary Appointment Of Counsel ?	7
 Right Or Appointment Is Qualified ?	28
 No Such Proceeding ?	0



NCCRC

National Coalition for a
Civil Right to Counsel



Introduced bills

Summary

We tracked 241 RTC-related bills this session.

127 were carried over from 2023

Year	Number of RTC bills *	Bills related to caregivers, children, parents, or <i>both</i>	Bills in the TPR (State) or Dependency context
2023	214	94 (44%)	49 (~23%)
2024	241	101 (42%)	50 (~21%)

Caregiver, Child & Parent bills

Common subject areas

Subject	Frequency	
	2023	2024
Abuse / Neglect / Dependency	45	43
TPR (State)	18	26
TPR (Private)	10	11
Minor Guardianship	8	10
Parentage	6	8
Invol. Commit. of Minors	4	6



Child welfare bills

by party

Party	2023	2024
Children	61	60
Parents	15	16
Both	15	22
Caregiver (or other)	3	3

Did you know?

Child welfare bills constituted about 20% of all RTC bills introduced in 2023, but **36% of the bills enacted were child welfare-related.**

Introduced bills

Trending or unique topics among child bills

2023		2024	
Caregiver RTC	IN SB 26 ; HB 1001	Caregiver RTC	IN SB 40 ; WV HB 5026 ; NY AB 2526 / SB 478 (custody / guard) *
		Child abuse registry	AZ SB 1664 * (enacted but RTC removed ☹)
Extended foster care	CT SB 1008	Extended foster care	WA SB 5230
Fee reform	AZ HB 1754	Fee reform	HI SB 2323 / HB 2722
Indian children and parents	AZ SB 1643 ; CT SB 1204 ; ME LD 1970 ; MN SF 667 ; MT HB 317 ; NV AB 444 ; WY SF 94	Indian children and parents	AZ SB 1714 ; CA AB 81 ; KS HB 2772 ; MN HF 5237 ; RI HB 7697 / SB 2680
Obligation on court or others	e.g., HI SB 411 / HB 829 / HB 779	Obligation on court or others	Same. Codifying <i>In re T.M.</i> , 319 P.3d 338 (Haw. 2014) and <i>In re L.I.</i> , 482 P.3d 1079 (Haw. 2021)
Sufficient age or maturity requirements	FL SB 2224 (Guard)	Sufficient age or maturity requirements	IN HB 1056 +; IA HF 2580 +; KS HB 2381 +
RTC pre-voluntary placement	NM SB 31	RTC pre-voluntary placement	WA HB 1295 ; NY SB 9695 *

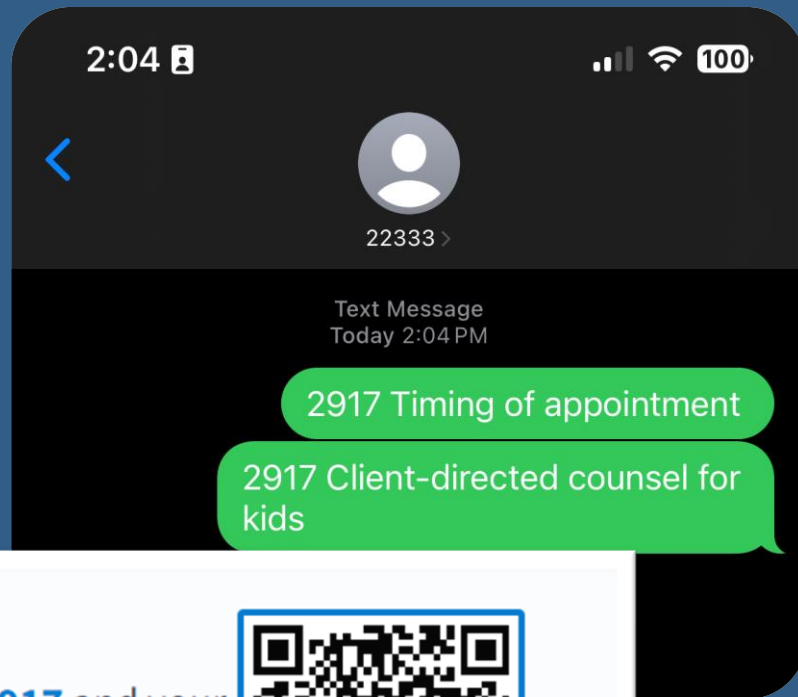
Active; [Dead](#) (or presumed to be); [Enacted](#)

+ Natalece will be discussing these!

* We'll discuss shortly!

If you had a magic wand...

What **RTC-related** issue would you want the legislature to address in your jurisdiction?



Join
by
Web

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/amandainsalaco065

Join
by
Text

Send **2917** and your
message to **22333**



Notable bills

Federal

US HB 8810

(Intro and to Ways & Means on 6/21/24)

Requiring states to take steps to ensure that children, parents, guardians, or anyone with custody of the child has "information about and access to independent legal representation ... as appropriate." This applies in any case involving a child where there are abuse or neglect allegations, including dependency, adoption, guardianship, and termination of parental rights.

Notable bills

Caregiver et al. bills

Bill	Brief description	Status
IN SB 40 ;	Requiring the circuit or superior court exercising jurisdiction over a Child In Need of Services (CHINS) case in certain counties to establish a <i>caregiver counsel pilot program</i> to appoint counsel for an "unlicensed caregiver" in a CHINS matter if the caregiver is indigent.	Senate Judiciary Committee: amend do pass adopted on 1/11/24; to Appropriations
NY AB 2526	Expands the RTC in family cases to "kinship caregiver[s]" and anyone "acting as a parent of a child, who is seeking custody or guardianship of [the] child" in proceedings brought under Part 3 (Custody) or Part 4 (Guardianship) of Article 6 of the NY Family Court Act, as well as respondents in guardianship proceedings under Part 4	To Ways & Means on 1/3/24
NY SB 478		Amended to remove RTC; instead creating 'Kinship legal network program' w/i Office of Children and Fam. Servs., comprised of NPO service providers to help w/ variety of matters
WV HB 5026 ;	In an <i>adoption or legal guardianship case originating as a result of an approved permanency plan in a juvenile abuse and neglect proceeding</i> , prospective adoptive parents or legal guardians must file a motion requesting appointed counsel. Within five judicial days, the court shall appoint an attorney to represent them	Introduced and to Judiciary Committee on 1/23/24.

Source: MultiState, [2024 Legislative Session Dates](#) (Updated July 11, 2024).

State	Session ends	Carryover?	Special sessions
IN	3/8/24	No	Technical session, scheduled for 5/14/24, cancelled
NY	6/8/24	No	As of today, no special session scheduled
WV	3/9/24	No	TBA mid-August special session, re: childcare; Special session, re: various appropriations, 5/19/24 - 5/21/24

Notable bills

Child abuse registry

AZ SB 1664 (enacted but...)

Would have provided a RTC *to persons against whom an allegation of child abuse or neglect has been substantiated*, in matters related to adding the person to the child abuse registry

Though the bill was enacted, **the RTC provision was removed.** ☹️

DE HB 86 (waiting Gov signature!)

MS SB 2792 (enacted)

Changing appointment from
discretionary to *mandatory*
for indigent parents!

Notable bills

Parent bills



TPR (State) – Birth Parents



Abuse/Neglect/Dependency – Birth Parents

Notable bills

Pre-filing RTC

Bill No.	Description	Status
NY SB 9695	Indigent adults subject to a CPS investigation have the RTC prior to the initiation of any court proceeding.	Passed Senate on 6/4/24 ; to Assembly Children & Families Committee.
WA HB 1295	<p>When there is no pending dependency proceeding and the Dep't proposes a voluntary placement agreement, the child's <i>parent, guardian or legal custodian</i> has the right to consult with an attorney by telephone or video conference.</p> <p>If after the consultation, they desire to have an attorney assigned, they shall receive representation by counsel according to the implementation schedule in the bill.</p>	Referred to various committees; By resolution, reintroduced and retained in present status on 1/8/24 .

NY: Session ended 6/8/24; No carryover to 2025. As of today, no special session scheduled

WA: Session ended 3/7/24; No carryover to 2025. As of today, no special session scheduled.

Source: MultiState, [2024 Legislative Session Dates](#) (Updated July 11, 2024).

RTC for incarcerated parents

NY legislative session ended 6/8/24; No carryover to 2025. As of today, no special sessions scheduled

Source: MultiState, [2024 Legislative Session Dates](#) (Updated July 11, 2024).

Bill No.	Description	Status
NY AB 3483	Providing a RTC to incarcerated birth parent <i>and</i> their child if the child is removed from the parent's care due to concerns about the child's welfare "No child shall be removed from the nursery without the express oral and written consent of the birthing parent or a finding, by clear and convincing evidence, that such person poses an imminent risk to the health and safety of the child and that this risk cannot be mitigated through reasonable efforts on behalf of the institution or local correctional facility..."	RTC provision removed by Assembly Correction Committee
NY AB 7630		To Assembly Codes Committee on 5/30/24
NY SB 7132		Passed Senate on 6/6/24 and to Assembly Codes Committee

[← Programs](#)

Family Services Programs

Overview

Goals

Admission Requirements

Overview

Family Services Programs are multi-faceted and may be provided by outside agencies contracted by the Department, facility staff, and/or community volunteers. These programs include:

- Parent education programs for both male and female incarcerated individuals with attention to the same or similar programs for the non-incarcerated partner. Some programs include reading and audiotape books for the children.
- Individual and family counseling to assist in enhancing familial relationships, including a tele-vsit component.
- A nursery program for eligible incarcerated women who give birth in prison, enabling them to maintain custody of their child in the nursery

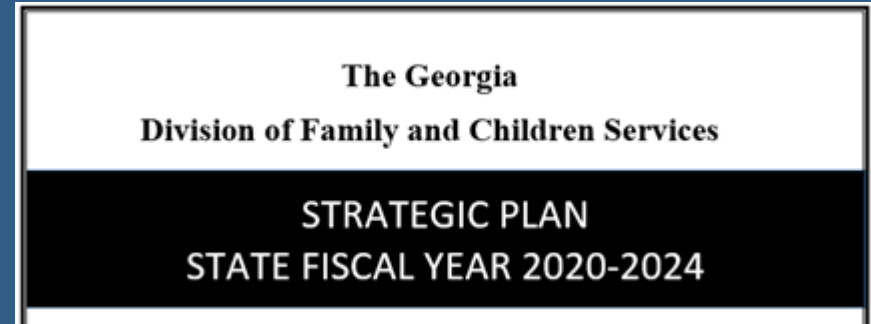
GAL to file TPR petition

GA SB 376 (enacted)

Stated goal of “improv[ing] timely placement of a child removed from their home”

“At least 30 days prior to the fifteenth month a child has been in foster care and when the court deems appropriate, **the court shall review DFCS's determination that filing a petition to terminate parental rights would not be in the best interests of such child...**” And at the hearing on the petition, “the court may appoint an attorney ad litem to file a petition to terminate parental rights on behalf of the child”.

Children in GA already have the RTC *and* right to guardian ad litem. (A dual role is permitted absent a conflict.) Court may appoint CASA in addition to atty GAL



PERMANENCY OBJECTIVES

Objective 5: Increase the percentage of children in Foster Care with adoptions that finalize (within 24 months of entering care) from 22% to 45% by July 2024.

Month/Year	Target Measure
July 2020	25%
July 2021	30%
July 2022	35%
July 2023	40%
July 2024	45%

Data Source: The State's Automated Child Welfare Information System (SHINES)

GA SB 376 (enacted) (cont'd)

- Was unable to reach Senator Tillery's office to ask about impetus for bill
- Possibly a response to:
 - U.S. HR 7664? which would change ASFA to make TPR optional for states ("may" rather than "shall") and change the current "15/22" rule to instead require at least 24 consecutive months in foster care before termination
 - Attempt to increase earnings from the Adoption and Legal Guardianship Incentive Payments program?

Appendix 1: Key Statistics on Termination of Parental Rights, By State			
State	Proportion of children entering foster care in 2013 who experienced TPR within 5 years of entry	Proportion of TPRs that occurred before 17 months	Proportion of children without TPR at 17 months who were living with relatives
Alabama	17.4%	36.0%	17.6%
Alaska	39.7%	28.2%	18.2%
Arizona	37.1%	62.0%	42.5%
Arkansas	22.6%	79.4%	18.5%
California	23.3%	53.5%	39.8%
Colorado	19.8%	84.3%	18.6%
Connecticut	26.8%	40.7%	41.0%
Delaware	20.4%	57.4%	2.8%
District of Columbia	32.7%	17.2%	20.5%
Florida	28.3%	65.9%	42.6%
Georgia	21.3%	40.9%	22.4%
Hawaii	15.8%	46.4%	56.2%

Adoption and Legal Guardianship Incentive Payment Program - Earning History by State: FY 1998-FY 2022¹

Updated October 2023

State	Earning Years ²																									Total
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY2020	FY2021*	FY2022*	
Alabama	\$0	\$108,000	\$192,000	\$186,000	\$96,000	\$376,000	\$386,000	\$0	\$52,000	\$0	\$412,000	\$1,668,000	\$1,868,000	\$360,000	\$1,540,000	\$984,000	\$1,032,250	\$164,000	\$178,000	\$24,000	\$1,662,500	\$1,428,500	\$1,763,500	\$1,294,000	\$390,000	\$16,162,750
Alaska	\$0	\$166,000	\$382,000	\$400,000	\$0	\$116,000	\$0	\$0	\$0	\$230,000	\$224,000	\$812,000	\$836,000	\$404,000	\$592,000	\$620,000	\$775,000	\$22,500	\$80,000	\$377,000	\$284,000	\$578,000	\$210,000	\$202,000	\$62,000	\$7,372,500
Arizona	\$0	\$1,326,000	\$684,000	\$384,000	\$0	\$280,000	\$0	\$1,034,000	\$2,100,000	\$1,410,000	\$499,200	\$660,000	\$4,064,000	\$5,856,000	\$5,732,000	\$7,400,000	\$7,047,750	\$604,000	\$1,080,000	\$6,582,000	\$5,985,000	\$2,427,500	\$412,000	\$0	\$2,105,000	\$57,672,450
Arkansas	\$596,000	\$194,000	\$206,000	\$176,000	\$0	\$468,000	\$0	\$0	\$156,000	\$60,000	\$822,080	\$1,536,000	\$1,572,000	\$1,464,000	\$2,316,000	\$2,280,000	\$1,582,000	\$185,000	\$0	\$1,232,500	\$1,142,000	\$1,995,500	\$305,000	\$434,000	\$631,000	\$19,353,080
California	\$3,916,000	\$11,698,000	\$12,434,000	\$4,388,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,504,960	\$0	\$0	\$0	\$0	\$0	\$130,000	\$5,160,500	\$11,620,000	\$8,006,000	\$7,715,000	\$2,630,000	\$500,000	\$11,752,500	\$2,942,500	\$84,397,460
Colorado	\$892,000	\$820,000	\$0	\$0	\$496,000	\$546,000	\$64,000	\$0	\$0	\$504,000	\$0	\$0	\$0	\$0	\$64,000	\$0	\$505,500	\$1,106,500	\$575,000	\$1,298,500	\$799,000	\$200,000	\$381,500	\$1,214,500	\$703,000	\$10,069,500
Connecticut	\$88,000	\$500,000	\$384,000	\$0	\$546,845	\$0	\$0	\$520,000	\$0	\$0	\$511,360	\$588,000	\$16,000	\$0	\$0	\$0	\$171,250	\$955,000	\$766,000	\$12,000	\$118,000	\$1,183,000	\$116,000	\$1,824,500	\$1,968,000	\$10,267,955
Delaware	\$0	\$28,000	\$336,000	\$112,000	\$64,000	\$0	\$0	\$0	\$0	\$0	\$0	\$116,000	\$0	\$20,000	\$0	\$32,000	\$10,000	\$15,000	\$333,000	\$107,000	\$137,000	\$267,500	\$202,500	\$292,500	\$0	\$2,062,500
Dist of Columbia	\$0	\$136,000	\$346,000	\$0	\$0	\$0	\$1,072,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$457,000	\$270,000	\$115,000	\$0	\$390,000	\$75,000	\$127,500	\$220,000	\$112,500	\$3,321,000
Florida	\$2,744,000	\$0	\$370,000	\$0	\$3,520,000	\$2,544,000	\$3,486,000	\$0	\$0	\$0	\$9,755,040	\$6,456,000	\$3,844,000	\$1,992,000	\$4,984,000	\$6,132,000	\$2,784,250	\$610,000	\$0	\$300,000	\$2,710,000	\$3,180,000	\$675,000	\$0	\$540,000	\$56,626,290
Georgia	\$956,000	\$1,796,000	\$0	\$0	\$174,000	\$0	\$656,000	\$0	\$97,000	\$20,000	\$288,640	\$412,000	\$112,000	\$0	\$0	\$0	\$1,013,500	\$460,000	\$120,000	\$1,584,000	\$1,167,000	\$5,850,000	\$2,506,000	\$1,846,500	\$416,000	\$19,669,640
Hawaii	\$1,102,000	\$0	\$0	\$0	\$208,000	\$0	\$54,000	\$498,000	\$0	\$0	\$204,000	\$212,000	\$40,000	\$136,000	\$0	\$0	\$20,000	\$225,000	\$55,000	\$278,500	\$206,000	\$467,000	\$240,000	\$1,315,000	\$134,000	\$5,394,500

Does your state have its own TPR timeline law?

If so, is the TPR timeline the same as or shorter than the 15/22 rule from the ASFA?



Responses are anonymous

When poll is active
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Questions?
Comments?

Want to get in touch?

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