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HALF OF U.S. STATES SHORT-CHANGE ABUSED AND NEGLECTED CHILDREN

*State-by-state report card grades how states protect their legal rights;
Advocates say abusers have more legal rights than the abused;
Call for stronger protections in federal and state law*

WASHINGTON, D.C. - MAY 10, 2012 - Despite the moral imperative and sound fiscal basis for protecting the legal rights of abused and neglected children, half of U.S. states cheat them of appropriate legal representation, denying them an effective voice in proceedings that determine their futures, according to a state-by-state study conducted by two national child advocacy organizations.

The report - *A Child's Right to Counsel: A National Report Card on Legal Representation for Abused and Neglected Children* - was released today on Capitol Hill by First Star, a national organization working to improve the lives of America's abused and neglected children, and the Children's Advocacy Institute at the University of San Diego School of Law (CAI). To view the full report, visit www.firststar.org, or www.caichildlaw.org.

The report is meant to serve two purposes. One is to alert child advocates, policy makers, the media, and the public of the inequities from state to state in providing abused and neglected children with legal representation in dependency proceedings. The second is to initiate a national call to action promoting stronger federal and state laws to provide these children highly trained and qualified legal representation to ensure they have a fighting chance to resolve and overcome childhood maltreatment and achieve bright futures.

"In the U.S., the right to counsel is guaranteed to everyone accused of breaking the law – including parents and other caregivers accused of child abuse and neglect," said Elissa T. Garr, Executive Director of First Star. "Yet the abused and neglected children in these cases, who are the least able to advocate for themselves, are not guaranteed counsel. It is tragic that in many states across the country, when judicial decisions are being made that will impact every facet of these children's lives, the right to counsel is not guaranteed to the victims of that abuse and neglect."

The report graded each state and the District of Columbia based on how well they protect the legal rights of abused and neglected children in dependency court. Shamefully, twenty-five states earned C's or lower:

- 3 states earned A+'s: Connecticut, Massachusetts and Oklahoma;
- 12 states earned A's: Iowa, Kansas, Louisiana, Maryland, Mississippi, Missouri, New Mexico, New York, Ohio, Texas, Vermont, and West Virginia;
- 11 states earned B's: Arkansas, California, District of Columbia, Michigan, New Jersey, North Carolina, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wyoming
- 9 states earned C's: Alabama, Arizona, Colorado, Minnesota, Nebraska, Oregon, South Dakota, Utah, and Wisconsin
- 6 states earned D's: Alaska, Georgia, Illinois, Kentucky, Nevada, and South Carolina

- 10 states earned F's: Delaware, Florida, Hawaii, Idaho, Indiana, Maine, Montana, New Hampshire, North Dakota, and Washington

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“First Star and CAI applaud the states who earned A's this year. It is extremely gratifying to know that these states – representing diverse regions across the U.S. – recognize the importance of ensuring that children have appropriate legal counsel in dependency proceedings,” said Robert Fellmeth, CAI's Executive Director. “Regrettably, many states still cling to a troubling double standard that affords the right to counsel to accused abusers while withholding it from abused and neglected children.”

Each year, more than 695,000 children, ranging in age from infants to teenagers, are victims of abuse and neglect at the hands of their parents or guardians, according to US Department of Health and Human Services data. An estimated 1,560 child deaths per year are attributable to maltreatment.

Those who survive abuse and neglect often “age out” of the foster care system unemployed, homeless, and dependent on government assistance programs. Nearly half of male former foster children end up in prison. Only 3% of former foster children make it through college with a bachelor's degree.

“The system designed to ‘rescue’ these children often further victimizes them and can set them up for a very hard life,” Peter Samuelson, President and co-founder of First Star said. “For those unmoved by the sheer moral imperative of helping these children, the cost to society is staggering. Kids aging out of the foster care system are generally under educated, unemployed, impoverished and homeless and can cost taxpayers as much as \$124 billion in their lifetimes.”

The report points out the important role the legal system plays in the lives of children who survive familial abuse and are placed in foster care, and cites data indicating that children who have adequate legal representation achieve permanent placements more quickly – sparing them additional distress and uncertainty, while saving tax dollars associated with repeated out-of-home placements.

Dependency courts assume a parental role in deciding the future of abused and neglected children. Sound decision-making by the court as “parent” is enhanced if the children who come before them have someone standing with them who can fully participate in the legal proceedings, and who can help them understand the questions discussed and the impact of different decisions.

“Imagine a 12-year-old-boy in a courtroom not understanding anything that was being said and not knowing what was going to happen to him,” said Tracye Redd, a foster child alumni from Iowa who now lives in Washington, DC. “I was lucky. Iowa laws ensured that I was given a lawyer to guide me through the process and speak up for me in court. My guess is a lot of people on Capitol Hill don't realize the uneven playing field that exists for foster children who may live only a few miles apart across a state line. That's why reports like this are so important. People who have the power need to know, so they can act.”

First Star and CAI are urging Congress and the states to strengthen laws that give abused and neglected children legal counsel, which will result in better outcomes for these children and benefit all of us as a society.

At the federal level, First Star and CAI recommend better monitoring of state compliance with the current requirement for representation for abused and neglected children under the federal Child Abuse Prevention and Treatment Act (CAPTA). In addition, they call for CAPTA amendments that would expand requirements for independent, competent legal counsel for abused and neglected children in dependency proceedings, and ensure that children are treated as parties to these proceedings with all associated rights.

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At the state level, First Star and CAI recommend passing legislation that would:

- Assure that children in abuse and neglect cases are represented by independent, competent attorneys;
- Require specialized, multi-disciplinary training for children's attorneys (legal training, specific to abuse and neglect proceedings and specialized, multi-disciplinary training so the lawyer understands how to work with children and can effectively counsel them);
- Ensure that a child is a party to the proceedings and can be heard from directly (if the child so desires after being counseled by a competent, trained attorney);
- Require reasonable caseload limits for attorneys representing children so as to encourage effective, competent representation;
- Collaborate with other states to adopt best practices;
- Offer specialized training programs for judges who hear cases of abuse and neglect to ensure sound decision-making;
- Provide representation for abused and neglected children involved in other legal proceedings related to custody, immigration, education, and a host of other issues;
- Ensure that children's attorneys are adequately compensated.

This is the Third Edition of the *Right to Counsel* report with previous editions issued in 2007 and 2009. Since the first report, many states have adopted stronger legal protections.

State grades were based on a rigorous examination of state law for adherence to guiding principles developed by national child welfare experts using a 100-point grading system. Criteria included: whether state law mandates that attorneys be appointed for children in dependency proceedings; the extent to which a child receives client-directed representation; whether this representation continues throughout the case, including appeal; whether states have specialized education or training of a child's counsel; whether the child is given the legal status of a party to the proceedings; and whether rules pertaining to confidentiality and immunity from liability apply to attorneys representing these children. Officials and advocates from each state were given the opportunity to participate in the process and many did so, providing valuable feedback.

Congressional sponsors of today's briefing included: U.S. Sen. Mary Landrieu (D-LA), U.S. Sen. John Kerry (D-MA), U.S. Rep Pete Stark (D-CA), U.S. Rep. Karen Bass (D-CA), U.S. Rep. Laura Richardson (D-CA), U.S. Rep. Gwen Moore (D-WI), and U.S. Rep. Dave Camp (R-MI)

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First Star is a national 501(c)(3) non-profit that improves the lives of America's abused and neglected children by strengthening their rights, illuminating systemic failures, and igniting reform to correct them. We pursue our mission through research, public engagement, policy advocacy, litigation, and direct services. Visit <http://www.firststar.org>.

The Children's Advocacy Institute of the University of San Diego School of Law works to improve the health, safety, and well being of children. In addition to its academic component, CAI engages in regulatory and legislative advocacy, impact litigation and public education in order to ensure that children's interests are represented effectively whenever and wherever government makes policy and budget decisions that will impact them. Visit <http://www.caichildlaw.org>.