

Written Testimony in Support of House File 953
Relating to Legal Representation of Children Who Are or May be Placed in Foster Care
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Chair Salmon and Senators Guth and Zimmer,

The [National Association of Counsel for Children](#) (NACC) strongly supports House File 953 that would guarantee client-directed legal counsel for youth in court proceedings involving allegations of child abuse or neglect. NACC endorses the client-directed model of legal representation because it promotes judicial consideration of youth perspective, empowers youth and improves their perception of fairness of the proceeding, mitigates potential attorney bias, and properly reserves conclusions of fact and law to judicial officers. The best way to ensure a child's voice is amplified and considered during these decision-making processes is through the appointment of client-directed legal counsel.

No Decisions for Youth Should Be Made Without Youth

Youth with lived experience in the child protection system overwhelmingly indicate a desire to be [seen, heard](#), and [represented](#). Those represented by a client-directed attorney can meaningfully contribute to the decision-making processes that have long-term impact on their lives. They can tell their attorney where they are safe and where they are not; who they hope to visit and who they do not; their concerns about their siblings and parents; and anything they are experiencing in foster care such as issues they are having with their placement or substitute caregivers.

The children's attorney must ascertain and zealously pursue the child-client's stated objectives. This does *not* mean that the attorney has reflexive, or "robotic allegiance" to each directive of the client. Client counseling and relationship-building are fundamental to the representation of children and youth in any courtroom. Children's attorneys are specially trained to advise child-clients in a developmentally appropriate manner on their legal rights, their options, and potential outcomes.

Just as in Juvenile Justice Cases, Children in Child Abuse and Neglect Cases Deserve the Legal Protections of Client-Directed Counsel

In the 1967 case of [In re Gault](#), the United States Supreme court guaranteed children accused of delinquent acts the right to effective assistance of client-directed legal counsel. Right now in courtrooms in Iowa and across the country, youth accused of crimes are appointed client-directed legal counsel who ascertain and advance their counseled wishes. Children involved in Iowa's child protection system do not have this benefit, yet are often subject to [similar restrictions of liberty](#) as children accused of delinquent acts (including a limited right to association with family, temporary placement in hotels, CPS administrative offices, group homes, institutions, or locked psychiatric facilities, and, at times, even physical confinement). Appointing client-directed legal counsel to children involved in child abuse and neglect proceedings is critically necessary to protect their life, liberty, and safety.

Client-Directed Legal Counsel Promote Equity and Fairness

A children's attorney has a direct influence on the child's courtroom experience and their evaluation of its fairness. A child's [perception of fairness](#) is significantly shaped by the quality of their experiences-- being treated with dignity and having their viewpoint heard—rather than the outcome alone. Like adult litigants, children and youth are more readily able to accept the outcome of court cases – even decisions they disagree with – if they perceive they have been heard in the process.

Best-interest legal representation requires an attorney to develop an informed opinion about what is best for a child and then advance that best-interest determination in court. It leaves the attorney at risk for assessing situations according to their own values and experiences, which may be starkly different than the child and family involved in the court proceeding. It may also mean that the judicial officer lacks proper evidence about the child's expressed wishes and is hindered from evaluating potential options. By contrast, client-directed legal representation allows the child-client to set case objectives and avoid making best-interest determinations that could be affected by his or her personal biases. It also requires the attorney to zealously pursue the client's agenda.

Judges – not Attorneys - are Responsible for Determining a Child's Best Interest

Determining what is in the best interest of the child is ultimately in the purview of the judge. When each party to a child abuse and neglect proceeding is represented by counsel, there is a comprehensive flow of information to the judicial officer. As experts about their own lives, children and youth are well-situated to provide comprehensive and accurate information to shape this analysis. Children's attorneys help ensure that the child is [centered](#) in case decisions and directly heard by the judge.

Counsel for Kids Improve Outcomes

Children appointed client-directed attorneys experience [better results](#) than those who do not, including less time in foster care or group settings, shorter time to adoption or guardianship, and more successful reunifications. Children represented by client-directed legal counsel are [45% more likely](#) to reunify with their biological parents, [30% less likely](#) to change placements, and [65% less likely](#) to change schools for reasons other than graduation. A client-directed attorney can shorten the time a child is in the foster care system, meaning [cost-savings](#) for state and federal taxpayers.

Ensuring High-Quality Representation in Implementation

As Iowa pursues this reform, it is critical that lawmakers work with stakeholders to develop an implementation plan alongside proposed legislation. Specifically, practice standards for attorneys can help ensure uniform high-quality legal representation. We applaud Iowa's Court Improvement Program for thinking ahead and standing at the ready to develop these guidelines for practitioners.

Organizations and Other States Have Adopted a Client-Directed Model of Legal Representation

The proposed changes found in HF 953 align with the recommendations of [The American Bar Association's Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings](#), the [ABA Model Rules of Professional Conduct \(R. 1.2\)](#), and [NACC's Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings](#) which all endorse client-directed representation.

[Alaska](#), [Arizona](#), [Colorado](#), [Montana](#), [North Dakota](#), and [Washington](#) have expanded access to client-directed legal counsel in the last two years. These states join Connecticut, Idaho, Louisiana, Massachusetts, Minnesota,

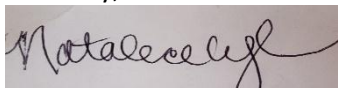
Nevada, New Mexico, New Jersey, New York, Oregon, Vermont, and Wisconsin where client-directed [models of legal representation](#) are already implemented.

Conclusion

Children and youth with lived experience in the child welfare system have consistently called for earlier and more frequent opportunities to be heard in the decisions that impact their lives. Children are typically the parties most profoundly affected by government interventions and judicial decisions, yet they are least equipped to independently communicate their desires to the court. Client-directed representation centers the youth's voice and perspective, recognizing youth are the experts of their own lives, but with the guidance and support of an attorney.

NACC applauds the committee's efforts to ensure client-directed legal representation for children and youth subject to child abuse and neglect court proceedings and urges your support of HF 953.

Sincerely,

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Natalece Washington" in a cursive script.

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