



Strengthening Legal Representation for Kentucky Families

An Analysis of Pre-Petition Legal Representation and Recommendations to Improve Outcomes

Author: Andrew Alvey, Kentucky Youth Advocates

Co-Authors: Dr. Shannon Moody, Shontelle Davis

Quality legal representation is essential to ensuring that the well-being of children is prioritized and their parents understand their rights, access available services, and are treated fairly during child welfare involvement.

In Kentucky, most families do not receive legal representation until after a child has been removed and a court petition has been filed. Without early support, families may feel pressured into prevention plans, voluntary custody agreements, or removals without fully understanding the consequences or being connected with preventive services. Kentucky's current system operates within a traditional legal framework, which means a crisis occurs before offering legal advocacy.

To further the Kentucky efforts around primary and secondary child abuse prevention, reducing unnecessary removals, and creating opportunities for more timely reunification and permanency, we can look to other states that have piloted approaches that provide support earlier in the process.

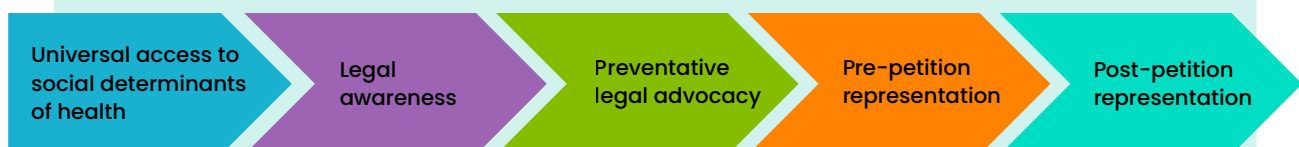
Preventative Legal Services

Preventive legal services are part of the continuum of high quality legal advocacy. These efforts provide support aimed to strengthen families and avoid unnecessary child welfare involvement.

Preventive legal services may be offered at multiple points along the front end of system involvement and can include legal advice, brief representation, or referrals that address the contributing issues that families are facing. These services are often delivered through interdisciplinary partnerships and are intended to strengthen families, promote safety, and prevent avoidable court involvement.

Within this broader continuum is pre-petition legal representation, which provides a more structured and intensive form of early legal advocacy.

CONTINUUM OF HIGH QUALITY LEGAL ADVOCACY TO SUPPORT CHILD AND FAMILY WELL-BEING



Strategically targeted efforts to help support families through advocacy that promotes social determinants of health to prevent the need to refer families to CPS for issues that legal advocacy can resolve

Adapted from Casey Family Programs <https://www.casey.org/preventive-legal-advocacy-topic-page/>

Pre-Petition Legal Representation

Pre-petition legal representation is a specific preventive legal services model that connects families with ongoing legal advocacy before a dependency, neglect, or abuse petition is filed. The primary goal of these services is to resolve the issues that place children at risk of removal, preventing unnecessary court involvement and out of home care for children. By intervening earlier, these programs provide another set of eyes to ensure that parent's and children's rights are not violated by misguided decisions or systemic biases.

Pre-petition programs typically begin when families are referred by caseworkers, schools, medical providers, or community organizations that identify warning signs of potential system involvement. Once connected, families receive support with both legal and non-legal challenges, including housing, public benefits, custody or guardianship issues, protection orders in cases of domestic violence, and navigating the child welfare process.

Services are often delivered by a multidisciplinary team that includes an attorney to provide legal advocacy, a social worker to help families access and coordinate services, and a peer advocate with lived experience to build trust and ensure engagement with the program. This team based approach is highly successful and recognizes that many factors leading to child welfare involvement require holistic support.

Initial Results from Programs

States that have invested in pre-petition legal representation are beginning to see measurable benefits for families. While program structures vary, published evaluations consistently show that early access to legal support can reduce removals, strengthen family stability, and improve long-term outcomes.

Michigan

During a 2009-2012 pilot, the Detroit Center for Family Advocacy kept all 110 children served safely with their families and generated an estimated \$1.3 million in child welfare cost avoidance for the region.

New Jersey

Between 2018 and 2020, Legal Services of New Jersey's Family Stability and Preservation Project served more than 200 families and over 300 children, with no children being removed from their homes.

Iowa

Iowa Legal Aid's Parent Representation Project was estimated to generate \$6.93 in return for every \$1 invested, and in 2023 closed 68 pre-filing cases involving 150 children within the six counties where it was piloted.

Vermont

The Parent Representation Center's first pilot avoided removal for 78% of families and reunited 50% of children who had been previously removed. A later pilot for mothers in medication-assisted treatment saw 63% maintain custody of their infants after 12 months.

Washington

The FIRST Legal Clinic has provided services to parents of substance-exposed infants since 2010, and as of August 2024 has prevented child removals in 89% of 1,150 cases and prevented judicial case filings in 82% of cases.

Common Characteristics Across Programs

Across the country, pre-petition programs share several common features that strengthen families and prevent unnecessary removals. These could be utilized as a model to create a system that best works for Kentucky's families.



Analysis of Pre-Petition Programs Across the Country

Who is eligible?

All:

- Families at risk of child welfare involvement before a petition is filed

Most:

- Indigent or low-income parents
- Parents facing civil legal issues could lead to removal

Some:

- Pregnant parents or parents of substance-exposed infants
- Parents in substance use treatment
- Survivors of domestic violence
- Parents on probation

What services are provided?

All:

- Civil legal help with housing, custody, guardianship, protection orders, and benefits
- Guidance on navigating the child welfare process

Most:

- Support during child welfare investigations
- Assistance appealing substantiations
- Addressing non-legal barriers to accessing stable housing, benefits, or services

Some:

- Criminal record sealing or expungement
- Representation in court for related civil matters
- Concrete supports such as transportation, clothing, or baby items
- Immigration support

How are programs funded?

All:

- A blend of public and private funding sources

Most:

- State appropriations or county contracts
- Philanthropic or foundation support

Some:

- Title IV-E reimbursement
- Time-limited legislative allocations
- Court Improvement Program funds
- American Rescue Plan Act funds

Where do referrals come from?

All:

- Child welfare agencies or caseworkers

Most:

- Community-based organizations
- Hospitals, schools, or treatment providers

Some:

- Self-referrals or hotline referrals
- Probation officers or probate courts
- Contracted service providers or legal service partners

Who is on the team?

All:

- An attorney

Most:

- A social worker or case manager
- A peer advocate, parent ally, or mentor parent with lived experience

Some:

- Specialized case managers or staff such as for housing, criminal, immigration, or other related matters

How are programs evaluated?

All:

- Whether a petition was filed and whether removal occurred

Most:

- Referral volume, service types, and client needs
- Family preservation or diversion from court involvement

Some:

- Reunification outcomes
- Cost savings
- Parent surveys or 6/12-month follow-up measures

Making the Case for Kentucky to Pilot a Pre-Petition Program

Early, interdisciplinary legal intervention is already demonstrating results in Kentucky through Doctors & Lawyers for Kids, a medical-legal partnership operated by the Legal Aid Society. In 2023, the program closed 148 civil legal cases for families served in Louisville pediatric and community health settings, addressing issues such as housing instability, special education barriers, and family law matters before they escalate into deeper system involvement.

Kentucky data shows that many families interact with the child welfare system due to conditions that could be addressed with timely support rather than a punitive investigation and full court removal.

Most substantiations in Kentucky involve neglect rather than abuse, with neglect often being tied to issues such as unstable housing, unmet educational needs, or transportation barriers. Additionally, in FY2024, 38.8% of Kentucky children exited care to reunification with their parents or primary guardians, underscoring that many families are able to remain safely together after the right supports are in place.

In 2023, Kentucky substantiated **9,442** maltreatment cases.

76% were cases of Neglect

Source: Department for Community Based Services, CY 2023

Findings from the latest Child Maltreatment Report emphasizes the need for early intervention and supports. Kentucky caregiver risk factors such as domestic violence and inadequate housing were present for 15.2% and 5.4% of victims, respectively. Drug and alcohol abuse make up 39.1% and 14.6% of risk factors, showing why many pre-petition programs target parents in substance use treatment.

6 out of 9 DCBS regions had caseworkers exceeding the statutory 25 case caseload.

When caseloads are high and vacancies persist, front end decisions occur under intense pressure.

Kentucky's child welfare system is also under significant strain. At the end of SFY2024, there were 7,547 children in out-of-home care. During April through June 2024, six of the nine DCBS regions had caseworkers exceeding the statutory 25 case caseload, including the Jefferson region which reported an average caseload of 95 in April. When caseloads are high and vacancies persist, front end decisions occur under intense pressure, increasing the likelihood that a family may be unnecessarily separated when earlier support could have addressed the underlying concern.

Pre-petition legal representation would offer workers and families an additional tool to resolve issues safely without resorting to removal or help a parent navigate the system early on if removal is necessary.

Educational Neglect: A growing issue and ideal focus area

Educational neglect is increasingly driving child welfare involvement in Kentucky. In the 2023-2024 school year, Kentucky schools had a chronic absenteeism rate of 28%, meaning that a quarter of students missed 10% or more of instructional time. Recent changes to Kentucky law requires a referral to the county attorney for potential court action after 15 unexcused absences. Also, in the past year, 539 children or 2.81% of substantiated maltreatment or services needed cases reported to DCBS, involved educational neglect.

All together, these trends show that many families are currently struggling with school attendance which could lead to DCBS or court involvement.

Kentucky already has evidence that talking with families and providing them with support helps to mitigate the need for DCBS involvement when it comes to these cases. One program that is showing strong impact is Parent Engagement Meetings (PEMs), which bring together parents, family resource counselors, and a PEM facilitator to discuss concerns and problem solve collaboratively. In the 2022-2023 school year, 84% of participating families in Jefferson County and 87% in piloted rural counties were diverted from DCBS involvement.



As Kentucky continues to expand PEMs and other prevention focused strategies, it's important to consider the impact that having access to an attorney and broader multidisciplinary team would have on family outcomes.

Recommendations

Kentucky should support the development and evaluation of a pilot for a pre-petition legal representation program to strengthen quality family legal representation and improve outcomes.

A strong first step toward piloting this approach would be creating a statewide office of family legal representation that could house and administer the pilot in targeted communities. A targeted pilot would strengthen early decision making, reduce preventable removals, and ensure that families receive support before concerns escalate into court involvement. A Kentucky pilot should:

- Target cases where early intervention can prevent removals, such as educational neglect.
- Ensure funding supports a multidisciplinary team that includes attorneys, social workers, and peer advocates with lived experience so that families receive holistic support.
- Collect data on outcomes, cost savings, and system impact, including changes in removal rates, short stay entries, court filings, and caseworker loads.
- Utilize Title IV-E reimbursement for allowable pre-petition legal services in order to maximize other available federal and state funds allocated to the program.

Implementing a pre-petition pilot would give Kentucky a clear path to test this approach, measure its effectiveness, and determine how early legal support can strengthen family stability and improve long term outcomes for children across the commonwealth.



Kentucky youth Advocates

10200 Linn Station Rd
Suite 310
Louisville, KY 40223

502.895.8167
888.825.5592

kyyouth.org

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