

A background image showing several hands of different skin tones stacked together in a supportive gesture, symbolizing community and solidarity.

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Access to Justice for All

A Comprehensive Look at the Civil Right to Counsel Across the United States

BY LINDSEY CECELLIA JACKSON, STUART DOWNEY, AND BRYANT LIN

Unlike in criminal proceedings, where defendants have a constitutionally guaranteed right to counsel, not all litigants in all civil proceedings have a right to counsel.¹ Instead the U.S. Supreme Court found a “presumption that an indigent litigant [in a civil proceeding] has a right to appointed counsel only when, if he loses, he may be deprived of his physical liberty.”² In spite of this presumption, the due process clause “does not always require the provision of counsel in civil proceedings where incarceration is threatened,” such as civil contempt proceedings.³

Even so, “due process is flexible and calls for such procedural protections as the particular situation demands.”⁴ In certain civil proceedings due process might still require that an indigent litigant be appointed counsel. Where a civil proceeding does not threaten an indigent litigant’s physical liberty, the Supreme Court directed trial courts to weigh three factors in determining whether counsel should be appointed under the Fourteenth Amendment: “the private interests at stake, the government’s interest, and the risk that the procedures used will lead to erroneous decisions.”⁵ Because trial courts often weigh these three factors differently, the civil right to counsel recognized pursuant to the



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Fourteenth Amendment varies among states.⁶

The civil right to counsel also varies among states because some states guarantee such a right that expands on those afforded by the U.S. Constitution and enforced by the Supreme Court. States can accomplish this by either enacting statutes or interpreting their state constitution’s due process clause to provide broader rights than that guaranteed by the federal constitution.⁷

With such diversity among state court rulings regarding rights to counsel and at the request of the Right to Counsel Committee of the California Commission on Access to Justice, we reviewed existing research as to which states afford what rights to particular civil litigants. Much of this research was developed by the National Coalition for a Civil Right to Counsel, which advocates a right to counsel for indigent people in civil cases involving basic human needs such as housing, public benefits, domestic violence, health, child custody, immigration, and incarceration. The coalition’s ranks have grown to nearly 300 participants in 38 states, and in addition to advancing the right to counsel via litigation, legislation,

1 See *Lassiter v. Department of Social Services of Durham County*, 452 U.S. 18 (1981); *Gideon v. Wainwright*, 372 U.S. 335 (1963).

2 *Lassiter*, 452 U.S. at 26–27.

3 See *Turner v. Rogers*, 564 U.S. 431, 446 (2011) (citing *Gagnon v. Scarpelli*, 411 U.S. 778 (1973)).

4 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

5 *Lassiter*, 452 U.S. at 27 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

6 *Id.* at 32. See *Clare Pastore, Life After Lassiter: An Overview of State-Court Right-to-Counsel Decisions*, 40 CLEARINGHOUSE REVIEW 186 (July–Aug. 2006).

7 See *Lassiter*, 452 U.S. at 34; *Laura K. Abel & Max Rettig, State Statutes Providing for a Right to Counsel in Civil Cases*, 40 CLEARINGHOUSE REVIEW 245 (July–Aug. 2006).

and increased public awareness, the coalition serves as the primary information clearinghouse on the issue. The coalition's website features an interactive map showing the status of the right to counsel by subject area, allowing visitors to see a visual depiction of which states provide a categorical or qualified right to counsel, leave appointment to the discretion of judges, or do not authorize appointment at all for each type of civil case.⁸ Clicking on any state allows the visitor to see the details of that right, including a citation to the source and whether the source is statutory or constitutional. The coalition also contributed its research to the American Bar Association's Directory of Law Governing Appointment of Counsel in State Civil Proceedings, a resource for state trial court judges weighing whether they must, should, or cannot appoint counsel in any particular case.⁹ Both the coalition's map and the American Bar Association's directory served as the primary basis for the appendix below, which summarizes the discretionary, mandatory, and qualified rights to counsel in 33 discrete legal areas. Besides serving as a tool and resource, this comprehensive chart shows the progress made and the areas where work is left to be done for unrepresented civil litigants.

This is not the first article to catalog the civil right to counsel across the United States. Laura K. Abel and Max Rettig first did so in their seminal 2006 comprehensive survey, also published in *Clearinghouse*.¹⁰ Now, more than a decade later and with the benefit of the existing research, we revisit where the United States stands on the civil right to counsel.

States are particularly receptive to granting a right to counsel in familial matters, especially where a parent runs the risk of losing custody of a child.

Trends Across States

While civil rights to counsel vary widely among the states, some civil legal matters have seen widespread progress in securing a right to counsel. Overall, states are particularly receptive to granting a right to counsel in familial matters, especially where a parent runs the risk of losing custody of a child. With the exception of Indiana, which provides a discretionary right, all states require a right to counsel for those defendants facing involuntary civil commitment. Similarly all states but Mississippi give allegedly incapacitated persons at least a discretionary right to counsel in petitions for guardianship or conservatorship.

While certain states provide their citizens with a much more accessible path to the courthouse, as a whole, the United States ranks low among developed countries in its accessibility to its civil justice system. Each year the World Justice Project publishes a report measuring how people across the world experience the rule of law in practice. One primary factor on which all countries are scored and ranked is civil justice, which "measures [among other factors] whether civil justice systems are accessible and affordable."¹¹ The United States ranks 28th worldwide in civil justice.¹² In terms of accessibility and affordability specifically, the United States is far below the average for both high-income countries and countries that are part of the European Union, European Free Trade Association, or North America.¹³

A Big Gap: Immigrant Representation

If the United States is to improve its access to justice, it must look to make substantial changes in the areas with the least amount of growth. One group in particular has severely limited access to justice: immigrants in immigration proceedings.

Immigrants in the United States have no federal right to appointed counsel in immigration court. While immigrants do have the right to counsel of their own choice at their own expense, a majority of immigrants in removal proceedings are not represented by an attorney.¹⁴ A nationwide study of more than 1.2 million deportation cases decided between 2007 and 2012 estimated that only 37 percent of all immigrants, and a mere 14 percent of detained immigrants, were represented by an attorney.¹⁵ Moreover, only 2 percent of these immigrants facing removal proceedings secured pro bono representation from law firms, non-profit organizations, or law school clinics.

Recent studies confirm that immigrants lack access to legal representation. A

8 [National Coalition for a Civil Right to Counsel, Status Map \(2017\)](#).

9 [American Bar Association, Civil Right to Counsel \(2014\)](#).

10 See Abel & Rettig, *supra* note 7.

11 [WORLD JUSTICE PROJECT, WORLD JUSTICE PROJECT RULE OF LAW INDEX 2016](#), at 40 (2016).

12 *Id.* at 41.

13 *Id.* at 153.

14 See [8 C.F.R. §§ 292.5\(b\)](#) ("Whenever an examination is provided for in this chapter, the person involved shall have the right to be represented by an attorney or representative."), [1240.10\(a\)](#) (2017) ("In a removal proceeding, the immigration judge shall ... [a]dvise the respondent of his or her right to representation, at no expense to the government, by counsel of his or her own choice."); [Leslie v. Attorney General](#), 611 F.3d 171, 181 (3d Cir. 2010) ("[A]lthough the Fifth Amendment does not mandate government-appointed counsel for aliens at removal proceedings, it indisputably affords an alien the right to counsel of his or her own choice at his or her own expense."); [United States v. Charleswell](#), 456 F.3d 347, 360 (3d Cir. 2006) (describing aliens' right to counsel at their own expense in formal removal proceedings as fundamental to proceeding's fairness).

15 [Ingrid V. Eagly & Steven Shafer, A National Study of Access to Counsel in Immigration Court](#), 164 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1, 2 (2015).

The United States ranks low among developed countries in its accessibility to its civil justice system.

study analyzing 110,131 cases in California immigration courts between 2012 and 2015 found that only approximately 32 percent of immigrant detainees were represented by an attorney.¹⁶ Similarly a study reviewing cases before Washington, D.C., metropolitan area immigration courts found that only 29 percent of detained immigrants in Arlington and 19 percent of detained immigrants in Baltimore were represented by an attorney.¹⁷ A study of removal proceedings in New Jersey immigration courts in 2013 and 2014 estimated that only one-third of the detained immigrants had attorney representation.¹⁸

Immigrants in removal proceedings without legal representation face dramatically worse odds than immigrants with representation. Among similarly situated detained immigrants, those with counsel obtained relief three times more often than those without counsel.¹⁹ Among similarly situated nondetained immigrants, those represented by counsel obtained relief eight times more often than those without counsel.²⁰ These discrepancies between the likelihood of success of those with counsel compared to those without run afoul of the ideal that the merits of one's case, rather than one's wherewithal, ought to determine the success of that case.

The benefits of increasing access to legal representation in immigration proceedings extend beyond simply improving an immigrant's odds of obtaining relief. Studies have shown that increased legal representation can lead to a more effective use of immigration court resources. Immigrants represented by counsel tended to obtain fewer continuances, file fewer unmeritorious claims, and require fewer hearings and lower detention costs than their unrepresented counterparts.²¹ Thus increasing access to counsel among immigrants facing removal can lead to a more just and efficient immigration system.

Some state and local governments have taken significant steps to making justice more accessible to immigrants in removal proceedings. A federal district court in California held in 2013 that immigrants with "mental disabilities" must be appointed legal representation in their immigration proceedings.²² In 2015 New York City became one of the first jurisdictions to offer universal representation to any detained and indigent immigrant facing deportation. New York City funded the New York Immigration Family Unity Project, which worked with organizations such as Bronx Defenders, Brooklyn Defender Services, and Legal Aid Society to intensify the improvement of access to legal services for immigrants. As a result, clients of the New York program are projected to succeed in their cases 10 times as often as unrepresented detained immigrants.²³ Inspired by the successes of the project, legislators

from other states and cities have sought to implement similar programs on the local and national level.²⁴

Given the current political climate in the United States, continued research into and advocacy for immigrants' access to counsel in immigration proceedings seem critical. By the time this survey is updated again, we hope to see expanded rights to counsel across the board in civil matters, especially in the area of immigration proceedings.

AUTHORS' ACKNOWLEDGMENTS

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16 [California Coalition for Universal Representation, California's Due Process Crisis: Access to Legal Counsel for Detained Immigrants](#) 4 (June 2016).

17 [Maggie Corser, Center for Popular Democracy, Access to Justice: Ensuring Counsel for Immigrants Facing Deportation in the D.C. Metropolitan Area](#) 8 (March 2017).

18 [Lori A. Nessel & Farrin Anello, Seton Hall Law Center for Social Justice, Deportation Without Representation: The Access-to-Justice Crisis Facing New Jersey's Immigrant Families](#) 3 (June 2016).

19 [Eagly & Shafer, supra note 15](#), at 57.

20 *Id.*

21 *Id.* at 59–72.

22 [Franco-Gonzalez v. Holder](#), No. CV 10-02211 (C.D. Cal. April 23, 2013).

23 [Bronx Defenders, New York Immigrant Family Unity Project](#) (n.d.).

24 See, e.g., [Casey Jaywork, Seattle to Earmark \\$1 Million for Immigrant Legal Defense Fund](#), SEATTLE WEEKLY (March 30, 2017); [Jazmine Ulloa, California Lawmakers Want to Provide Attorneys to Immigrants Facing Deportation. But Who Gets the Help?](#), LOS ANGELES TIMES (March 2, 2017); [Sarah D. Wire, Sen. Kamala Harris Pushes to Guarantee Access to Legal Counsel for Those Detained upon Entry to the U.S.](#), LOS ANGELES TIMES (Feb. 9, 2017).

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Editor's Note: An earlier version of this article contained less information about the National Coalition for a Civil Right to Counsel.

1. Abuse/Neglect/Dependency – Accused Parents

Discretionary: **California**²⁵ Stanislaus County Department of Social Services v. Noeline P. (In re Meranda P.), 65 Cal. Rptr. 2d 913, 918 (Cal. Ct. App. 1997); **Minnesota** MINN. STAT. § 260C.176 subd. 3(7) (2016); 2017 Minn. Laws 260C.163 subd. 3(c); **Mississippi** MISS. CODE ANN. §§ 43-21-201(2), 99-18-13(2) [2017]; **Missouri** MO. REV. STAT. § 211.211 (2016); **Nevada** NEV. REV. STAT. § 432B.420 (1) [2017]; **Oregon** OR. REV. STAT. § 419B.205(1) (2015); **Vermont** VT. STAT. ANN. 13 § 5232(3), 33 § 5306(d)(5) (2016); **Wisconsin** Joni B. v. State, 549 N.W.2d 411 (Wis. 1996)

Mandatory: **Alabama** ALA. CODE § 12-15-305 [2017]; **Arizona** ARIZ. REV. STAT. ANN. § 8-221(B) (2016); **Arkansas** ARK. CODE ANN. § 9-27-216(h)(1) [2017]; **Colorado** COLO. REV. STAT. § 19-3-202(1) [2017]; **Connecticut** CONN. GEN. STAT. ANN. § 46b-135(b) (2015); **Delaware** DEL. FAM. CT. R. CIV. P. 206, 207; Hughes v. Division of Family Services, 836 A.2d 498 (Del. 2003); **District of Columbia** D.C. CODE § 16-2304(b)(1) (2016); **Florida** FLA. STAT. § 39.013(1) (2016); **Georgia** GA. CODE ANN. § 15-11-160(b) [2017]; **Hawaii** In re T.M., 319 P.3d 338 (Haw. 2014); **Idaho** IDAHO JUV. R. 32(c), 37(c); **Illinois** 705 ILL. COMP. STAT. 405/1-5(1) [2017]; In re Harrison, 458 N.E.2d 146, 150 (Ill. App. Ct. 1983); **Indiana** IND. CODE § 31-34-4-6 (2016); **Iowa** IOWA CODE § 232.89 (2017); **Kansas** KAN. STAT. ANN. § 38-2205(a) (2015); **Kentucky** KY. REV. STAT. ANN. § 620.100(1) (2017); **Louisiana** LA. CHILD. CODE ANN. art. 608 [2017]; **Maine** ME. REV. STAT. ANN. tit. 22 § 4005(2) (2016); **Maryland** MD. CODE ANN., CTS. & JUD. PROC. § 3-813(a) [2017]; **Michigan** MICH. COMP. LAWS § 712A.17c(4) (2017); **Montana** MONT. CODE ANN. § 41-3-425 (2015); **Nebraska** NEB. REV. STAT. §

25 Right to counsel is discretionary in dependency proceedings.

43-279.01(1)(b) [2017]; **Nevada**²⁶ NEV. REV. STAT. § 432B.420(2)(a); **New Hampshire** N.H. REV. STAT. ANN. § 169-C:10(II)(a) [2017]; **New Jersey** N.J. STAT. ANN. § 9:6-8.43 (2017); **New Mexico** N.M. STAT. ANN. § 32A-4-10(B) (2016); **New York** N.Y. JUD. LAW § 35(8) (2017); N.Y. FAM. CT. ACT § 262(a) (i), (iv) [2017]; **North Carolina** N.C. GEN. STAT. § 7A-451(a)(12), (15) (2016); **Ohio** OHIO REV. CODE ANN. §§ 2151.352, 2151.353(C) [2017]; **Oklahoma** OKLA. STAT. tit. 10A, § 1-4-206(A)(1)(a), (2)(a) [2017]; **Pennsylvania** 42 PA. CONS. STAT. § 6337 [2017]; PA. R. JUV. CT. P. 1151(E); **Rhode Island** R.I. GEN. LAWS §§ 40-11-7.1(b), 40-11-14 (2016); R.I. R. Juv. P. 15(c)(4); **South Carolina** S.C. CODE ANN. § 63-7-1620(3) (2016); **South Dakota** S.D. CODIFIED LAWS § 26-7A-31 [2017]; **Tennessee** TENN. CODE ANN. § 37-1-126 [2017]; **Utah** UTAH CODE ANN. § 78A-6-1111 [2017]; **Virginia** VA. CODE ANN. § 16.1-266(D) (2016); **Washington** WASH. REV. CODE § 13.34.090 (2016); **West Virginia** W. VA. CODE §§ 29-21-2, 49-4-601(f) (2016); **Wyoming** WYO. STAT. ANN. § 14-3-422(a) [2017]

Qualified: **California**²⁷ CAL. WELF. & INST. CODE § 317(b) [2017]; **Texas** TEX. FAM. CODE ANN. § 107.013 a) (2015)

2. Abuse/Neglect/Dependency – Children

Discretionary: **Alaska** ALASKA STAT. § 47.10.050 (2016); **California** CAL. WELF. & INST. CODE §§ 300.2, 316; **Nevada** NEV. REV. STAT. § 432B.420(1); **New Hampshire** N.H. REV. STAT. ANN. § 169-C:10(I), (II)(b); **Wisconsin** WIS. STAT. ANN. § 48.23(Im) (2017)

26 Right to counsel is mandatory for parents of Native American children.

27 Right to counsel is mandatory in abuse and neglect proceedings if the petitioning agency recommends that the child live in out-of-home care or if the child has already been placed there. Otherwise the right to counsel is discretionary (see CAL. WELF. & INST. CODE § 317(a) [2017]).

Mandatory: **Alabama**²⁸ ALA. CODE §§ 12-15-102(10), 12-15-304(a); **Arkansas** ARK. CODE ANN. § 9-27-316(f)(1); **Colorado**²⁹ COLO. REV. STAT. § 19-3-203(1); **Connecticut** CONN. GEN. STAT. ANN. § 46b-136; **Delaware** DEL. SUPER. CT. R. NEGLECT & ABUSE 42; **Georgia** GA. CODE ANN. § 15-11-103; **Idaho** IDAHO CODE § 16-1614 (2016); **Illinois** 705 ILL. COMP. STAT. 405/1-5(1); **Iowa** IOWA CODE § 232.89(2); **Kansas** KAN. STAT. ANN. § 38-2205(a); **Kentucky** KY. REV. STAT. ANN. § 620.100(1) (a); **Louisiana** LA. CHILD. CODE ANN. art. 607; **Maine** ME. REV. STAT. ANN. tit. 22 § 4005(1) (A), (F); **Maryland** MD. CODE ANN., CTS. & JUD. PROC. § 3-813(a); **Massachusetts** MASS. GEN. LAWS ch. 119, § 29 (2016); **Michigan** MICH. COMP. LAWS § 712A.17c(7); **Mississippi** MISS. CODE ANN. §§ 43-21-121(4), 43-21-151, 43-21-201(1); **Missouri** MO. REV. STAT. § 210.160; **Montana** MONT. CODE ANN. § 41-3-425; **New Mexico** N.M. STAT. ANN. § 32A-4-10(C); **New York** N.Y. JUD. LAW § 35(7); N.Y. FAM. CT. ACT §§ 241, 249(a); **North Carolina** N.C. GEN. STAT. § 7B-601; **Ohio** OHIO REV. CODE ANN. § 2151.352; **Oklahoma** OKLA. STAT. tit. 10A, § 1-4-206(A)(1)(a), (2)(a); **Oregon** OR. REV. STAT. §§ 419B.195, 419B.875(2)(b); **Pennsylvania** 42 PA. CONS. STAT. §§ 6311, 6337.1(a); **South Dakota** S.D. CODIFIED LAWS § 26-7A-31; **Tennessee** TENN. CODE ANN. § 37-1-126; **Utah** UTAH CODE ANN. § 78A-6-1111; **Vermont** VT. STAT. ANN. 13 § 5232(3), 33 § 5112; **Virginia** VA. CODE ANN. § 16.1-266(A); **West Virginia** W. VA. CODE § 49-4-601(f); **Wyoming** WYO. STAT. ANN. § 14-3-211

Qualified: **Arizona**³⁰ ARIZ. REV. STAT. ANN. § 8-221(A-B), (I); **New Jersey**³¹ N.J. STAT. ANN. § 9:6-8.23; **South Carolina**³² S.C.

28 The guardian ad litem must be a licensed attorney.

29 *Id.*

30 At a minimum the child will receive a guardian ad litem.

31 The court must appoint a law guardian.

32 Appointment of a guardian ad litem is mandatory; appointment of counsel is discretionary.

[CODE ANN. § 63-7-1620\(1\)–\(2\)](#); **Wash- ington**³³ [WASH. JUV. CT. R. 9.2\(c\)\(1\)](#)

3. Adoption – Birth Parents

Discretionary: **Louisiana** [LA. CHILD. CODE ANN. art. 1244.1\(C\)](#); **Michigan** *In re Sanchez*, 375 N.W.2d 353, 358–59 (Mich. 1985); **North Carolina** [N.C. GEN. STAT. § 48-2-201](#).

Mandatory: **California** [CAL. WELF. & INST. CODE § 366.26\(f\)\(2\)](#); **Illinois** *In re Adoption of L.T.M.*, 824 N.E.2d 221 (Ill. 2005); **Indiana** *In re Petition of McClure*, 549 N.E.2d 392, 394 (Ind. Ct. App. 1990); **Kansas** [KAN. STAT. ANN. § 59-2136\(b\), \(c\), \(h\)](#); **Maine** [ME. REV. STAT. ANN. tit. 18-A § 9-106\(a\)](#); **Maryland** [MD. CODE ANN., CRIM. PROC. § 16-204\(b\)\(1\)\(vi\)](#); **Massachusetts** *In re Adoption of Meaghan*, 961 N.E.2d 110 (Mass. 2012); *Department of Public Welfare v. J.K.B.*, 393 N.E.2d 406 (Mass. 1979); **Minnesota** [MINN. STAT. §§ 259.47 subd. 5, 259.52 subd. 12](#); [MINN. R. ADOPT. PROC. 23.02 subd. 2, 23.04](#); **Missouri** [MO. REV. STAT. § 453.030\(12\)](#); **New Hampshire** [N.H. REV. STAT. ANN. § 170-B:13\(l\)\(a\)](#); **New Jersey** *In re Adoption of J.E.V.*, 141 A.3d 254 (N.J. 2016); **New Mexico** [N.M. STAT. ANN. § 32A-5-16\(E\)](#); **New York** [N.Y. SOC. SERV. LAW § 384-b\(3\)\(e\)](#); [N.Y. Surr. Ct. Proc. Act Law § 407\(1\)\(a\)\(iii\)](#); [N.Y. Fam. Ct. Act § 262\(a\)\(vii\)](#); **North Dakota** [N.D. CENT. CODE § 27-20-26](#) (2016); **Vermont** [VT. STAT. ANN. 15A, § 3-201](#); **Washington** [WASH. REV. CODE § 26.33.110\(3\)\(b\)](#); **Wisconsin** [WIS. STAT. ANN. § 48.23\(2\)](#)

Qualified: **Idaho** [IDAHO CODE § 16-2007\(5\)](#); **Oklahoma** [OKLA. STAT. tit. 10, § 7505-4.1\(D\)](#); **Oregon** [OR. REV. STAT. § 109.330\(4\)](#); **Pennsylvania**³⁴ *In re Adoption of R.L.*, 312 A.2d 601 (Pa. 1973)

33 Counsel must be appointed in dependency cases if the child does not have a guardian ad litem.

34 The mandatory right to counsel is unclear after *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981).

4. Adoption – Children

Discretionary: **Michigan** [MICH. COMP. LAWS § 710.23e](#); **Minnesota** [MINN. STAT. § 259.65](#); [MINN. R. ADOPT. PROC. 23.02, subd. 1](#); **Mississippi** [MISS. CODE ANN. § 93-17-8\(1\)\(b\), \(5\)](#); **North Carolina** [N.C. GEN. STAT. § 48-2-201\(b\)](#); **Oregon** *In re D.*, 547 P.2d 175 (Or. Ct. App. 1976)

Mandatory: **Connecticut** [CONN. GEN. STAT. ANN. § 46b-136](#); **Louisiana** [LA. CHILD. CODE ANN. art. 1244.1\(C\)](#); **Maryland** [MD. CODE ANN., FAM. LAW §§ 5-3A-07\(b\)\(1\), 5-3B-06\(b\)\(1\)](#); **Massachusetts** [MASS. GEN. LAWS ch. 210, § 3\(b\)](#); **Missouri** [MO. REV. STAT. § 453.025](#); **Nebraska**³⁵ [NEB. REV. STAT. § 43-272](#); **New Jersey** *In re Adoption of Mercado*, 442 A.2d 1078 (N.J. Super. Ct. App. Div. 1982); **New York** [N.Y. FAM. CT. ACT § 249\(a\)](#); **Vermont** [VT. STAT. ANN. tit. 15A, § 3-201](#)

5. Adult Protective Proceedings – Proposed Ward

Discretionary: **Hawaii** [HAW. REV. STAT. § 346-234\(a\)](#) [2016]; **Oregon** [OR. REV. STAT. §§ 125.025\(3\)\(b\), 125.080\(4\)](#)

Mandatory: **Arizona** [ARIZ. REV. STAT. ANN. § 14-5310\(C\)](#); **Arkansas** [ARK. CODE ANN. § 9-20-116](#); *Honor v. Yamuchi*, 820 S.W.2d 267, 269 (Ark. 1991); **California** [CAL. WELF. & INST. CODE § 15705.30](#); **Delaware** [DEL. CODE tit. 31 § 3909\(a\)\(2\)](#) (2017); **District of Columbia** [D.C. CODE § 7-1906\(a\)\(2\)](#); **Florida** [FLA. STAT. § 415.1051\(1\)\(c\)\(2\), \(2\)\(f\)\(2\)](#); **Indiana** [IND. CODE § 12-10-3-22](#); **Iowa** [IOWA CODE § 235B.3\(9\)\(c\)](#); **Massachusetts** [MASS. GEN. LAWS ch. 19A, § 20\(a\), ch. 19C, § 7\(a\)](#); **New Mexico** [N.M. STAT. ANN. § 27-27\(A\)\(2\)](#); **New York** [N.Y. MENTAL HYG. LAW § 47.03\(e\)](#); [N.Y. Soc. Serv. Law § 473-a\(5\)\(b\)\(iv\)](#); **North Carolina** [N.C. GEN. STAT. § 7A-451\(a\)\(11\)](#); **Ohio** [OHIO REV. CODE ANN. § 5101.66](#); **South Carolina** [S.C. CODE ANN. § 43-35-45\(B\)–\(C\)](#);

35 Right to counsel is mandatory if the case is brought in juvenile court.

Tennessee [TENN. CODE ANN. § 71-6-107](#); **Wisconsin** [WIS. STAT. ANN. §§ 55.10, 55.105, 55.18\(2\)\(b\)\(2\), \(2\)\(f\)\(3\), \(3\)\(c\)](#)

Qualified: **Mississippi** [MISS. CODE ANN. § 43-47-13\(2\)](#)

6. All Basic Human Needs

Discretionary: **Arizona** *Scheehle v. Justices of the Supreme Court*, 120 P.3d 1092, 1102 (Ariz. 2005); *McDaniels v. State*, 158 P.2d 151, 156 (Ariz. 1945); **Arkansas** *Virgin v. Lockhart*, 702 S.W.2d 9 (Ark. 1986) (per curiam); **Illinois** [735 ILL. COMP. STAT. 5/5-105\(g\)](#); [775 ILL. COMP. STAT. 5/10-102\(B\)](#); *Steward v. Schluter*, 819 N.E.2d 1 (Ill. App. Ct. 2004); *City of DeKalb v. Thomas*, 770 N.E.2d 730, 732 (Ill. App. Ct. 2002); **Indiana** [IND. CODE § 34-10-1-2](#); **Kentucky** [KY. REV. STAT. ANN. § 453.190\(1\)](#); *Wilson v. Melcroft Coal Company*, 11 S.W.2d 932, 933 (Ky. 1928); **Louisiana** *In re Johnson*, 475 So. 2d 340, 341–42 (La. 1985); **Missouri** [MO. REV. STAT. § 514.040\(1\)](#); **Montana** *State ex rel. Courturier v. Thirteenth Judicial District Court*, OP 11-0549 (Mont. Dec. 6, 2011); **New York** [N.Y. C.P.L.R. § 1102\(a\)](#); **Oklahoma** *Kiddie v. Kiddie*, 563 P.2d 139, 143 (Okla. 1977); **South Carolina** *Ex parte Foster*, 565 S.E.2d 290, 291 (S.C. 2002); *Ex parte Dibble*, 310 S.E.2d 440 (S.C. Ct. App. 1983); **Tennessee** [TENN. CODE ANN. § 23-2-101](#); **Texas** [TEX. GOV'T CODE ANN. § 24.016](#); *Gibson v. Tolbert*, 102 S.W.3d 710, 712–13 (Tex. 2003); **Utah** *Burke v. Lewis*, 2005 UT 44, ¶¶ 23-27, 122 P.3d 533, 538–40 (Utah 2005); **Wisconsin** *Joni B. v. State*, 549 N.W.2d 411, 414 (Wis. 1996); *Piper v. Popp*, 482 N.W.2d 353 (Wis. 1992)

Qualified: **Maryland** [MD. RULES, RULES 2-202, 3-202](#) (2017); **Minnesota** [MINN. STAT. § 363A.33 subd. 4](#); **New Jersey** [N.J. STAT. ANN. § 38:23C-6](#); **Oregon** *Opinion Request OP 1998-7* (Nov. 12, 1998); **Pennsylvania** *Zerr v. Scott*, 39

Pa. D & C.3d 459, 461 (Pa. Ct. Com. Pl. 1985); **Virginia** VA. CODE ANN. § 8.01-9; **Washington** Wash. Gen. R. 33(a)(1)(C); **West Virginia** W. Va. R. Civ. P. 17(c)

7. Bypass of Parental Input Into Abortion

Discretionary: **Colorado** COLO. REV. STAT. § 12-37.5-107(2)(b); **Utah** UTAH R. JUV. P. 60(c)

Mandatory: **Alabama** ALA. CODE § 26-21-4(b); **Alaska** ALASKA STAT. § 18.16.030(d); **Arizona** ARIZ. REV. STAT. ANN. § 36-2152(D); **Arkansas** ARK. CODE ANN. § 20-16-804(2)(A); **California**³⁶ CAL. HEALTH & SAFETY CODE § 123450(b); **Florida** FLA. STAT. § 390.01114(4)(a); **Georgia** GA. CODE ANN. § 15-11-114(a); **Idaho** IDAHO CODE § 18-609A(3); **Illinois** 750 ILL. COMP. STAT. 70/25(b); **Indiana** IND. CODE § 16-34-2-4(e); **Iowa** IOWA CODE § 135L.3(3)(b); **Kansas** KAN. STAT. ANN. § 65-6705(b); **Kentucky** KY. REV. STAT. ANN. § 311.732(3)(c); **Maine** ME. REV. STAT. ANN. tit. 22 §§ 1597-A(6)(C), 4005(1)(A), (F); **Massachusetts** MASS. GEN. LAWS ch. 112, § 12S; **Michigan** MICH. COMP. LAWS § 722.904(2)(e); MICH. CT. R. 3.615 (F); **Minnesota** MINN. STAT. § 144.343 subd. 6(ii); **Mississippi** MISS. CODE ANN. § 41-41-55(2); **Missouri** MO. REV. STAT. § 188.028(2)(1); **Montana** MONT. CODE ANN. §§ 47-1-104(4)(b)(iv), 50-20-509; **Nebraska** NEB. REV. STAT. §§ 71-6903(9), 71-6904(5); **Nevada** NEV. REV. STAT. § 442.2555(1); **New Hampshire** N.H. REV. STAT. ANN. § 132:34(II)(a); **North Carolina** N.C. GEN. STAT. §§ 7A-45L(a)(16), 90-21.8; **Ohio** OHIO REV. CODE ANN. § 2151.85(B)(2); **Oklahoma** OKLA. STAT. tit. 63, § 1-740.3(C); **Pennsylvania** 18 PA. CONS. STAT. § 3206(e); **South Carolina** S.C. CODE ANN. § 44-41-32(3); **South Dakota**

S.D. CODIFIED LAWS § 34-23A-7.1; **Tennessee** TENN. CODE ANN. § 37-10-304(c)(1); **Texas** TEX. FAM. CODE ANN. § 33.003(e); **Virginia** VA. CODE ANN. § 16.1-241(W); **West Virginia** W. Va. CODE § 16-2F-4(d); **Wisconsin** WIS. STAT. ANN. § 48.23(lm)(cm); **Wyoming** WYO. STAT. ANN. § 35-6-118(b)(iii)

Qualified: **Delaware**³⁷ DEL. CODE tit. 24 § 1784(e); **New Jersey**³⁸

8. Child Support

Discretionary: **Alaska** ALASKA STAT. § 25.24.310(a); **Arizona**³⁹ ARIZ. REV. STAT. ANN. § 25-321; **Illinois**⁴⁰ 750 ILL. COMP. STAT. 5/506(a); **Texas**⁴¹ TEX. R. CIV. P. 308a

9. Civil Commitment – Subject of Petition

Discretionary: **Indiana** IND. CODE § 12-26-2-5(c)

Mandatory: **Alabama** ALA. CODE §§ 22-52-4(a), 22-52-5; **Alaska** ALASKA STAT. §§ 18.85.100(a), 47.30.725(d); **Arizona** ARIZ. REV. STAT. ANN. §§ 31-502(A)(8), 36-528(D), 36-535; **Arkansas** ARK. CODE ANN. § 20-47-212; **California** CAL. PENAL CODE § 2972; CAL. WELF. & INST. CODE §§ 5346(c), 6500(b)(4); **Colorado** COLO. REV. STAT. §§ 27-65-106(10), 27-81-111(6); **Connecticut** CONN. GEN. STAT. ANN. §§ 17a-498(b), 17a-685(c), (l); **Delaware** DEL. CODE tit. 16 §§ 2214(1), 2215(3), 5006(3); **District of Columbia** D.C. CODE §§ 7-1304.02, 21-543; D.C. SUPER. CT. R. MENTAL HEALTH 2A(c), 12; D.C. SUPER. CT. R. MENTAL RETARDATION 11; **Florida** FLA. STAT. §§ 393.11(6), 393.12; **Georgia** GA. CODE

37 The qualified right to counsel is for an expedited appeal of a denial of parental waiver.

38 Right to counsel is not applicable because in New Jersey requiring parental notification is unconstitutional (see *Planned Parenthood of Central New Jersey v. Farmer*, 762 A.2d 620 (N.J. 2000)).

39 Discretionary right to counsel applies to the minor child.

40 *Id.*

41 Discretionary right to counsel applies to the parent.

ANN. §§ 37-3-81(a)(2), 37-3-83(g); **Hawaii**⁴² HAW. REV. STAT. §§ 334-60.4(b)(6)–(7), 802-1; **Idaho** IDAHO CODE §§ 66-329(7), 66-406(7); **Illinois** 405 ILL. COMP. STAT. 5/3-805, 5/3-816(b), 5/4-605; **Iowa** IOWA CODE § 229.8(1); **Kansas** KAN. STAT. ANN. §§ 59-2959(b)–(c), 59-2965(e), 59-29b59(b); **Kentucky** KY. REV. STAT. ANN. § 202A.121; **Louisiana** LA. REV. STAT. ANN. § 28:54(C) [2017]; **Maine** *In re Penelope W.*, 19 A.3d 813 (Me. 2011); **Maryland** MD. CODE ANN., CRIM. PROC. § 16-204(b)(1)(iv); **Massachusetts** MASS. GEN. LAWS ch. 123, § 12(b); **Michigan** MICH. COMP. LAWS § 330.1454; **Minnesota** MINN. STAT. § 253B.07 subd. 2c; **Mississippi** MISS. CODE ANN. §§ 41-21-67(3), 41-21-83, 41-21-102(8); **Missouri** MO. REV. STAT. §§ 631.135, 632.415; **Montana** MONT. CODE ANN. §§ 53-20-112, 53-24-302(9); **Nebraska** NEB. REV. STAT. § 71-945; **Nevada** NEV. REV. STAT. §§ 433A.270(1), 435.126(3); **New Hampshire** N.H. REV. STAT. ANN. §§ 135-C:22, 135-C:23; **New Jersey** N.J. STAT. ANN. § 30:4-27.11(c); **New York** N.Y. JUD. LAW § 35(1)(a); N.Y. MENTAL HYG. LAW § 9.60(g), 47.03; **North Carolina** N.C. GEN. STAT. § 7A-451(a)(6); **North Dakota** N.D. CENT. CODE § 25.03.1-13; **Ohio** OHIO REV. CODE ANN. §§ 5122.05(C)(2), 5122.15, 5123.71(B)(2); **Oklahoma** OKLA. STAT. tit. 43A, § 5-411(A)(2); **Oregon** OR. REV. STAT. § 426.100(3)(b); **Pennsylvania** *In re Hutchinson*, 454 A.2d 1008, 1011 (Pa. 1982); **Rhode Island** R.I. GEN. LAWS § 40.1-5-8(d)(2); **South Carolina** S.C. CODE ANN. §§ 44-17-530, 44-52-60(E), 44-52-80; **South Dakota** S.D. CODIFIED LAWS §§ 27A-11A-7, 27B-7-41, 34-20A-85; **Tennessee** TENN. CODE ANN. § 33-6-416; **Texas** TEX. HEALTH & SAFETY CODE ANN. § 574.003; **Utah** UTAH CODE ANN. § 62A-15-631(9)(a); **Vermont** VT. STAT. ANN. 18 § 7111; **Virginia** VA. CODE ANN. § 37.2-814; **Wash-**

36 Moot after *American Academy of Pediatrics v. Lungren*, 940 P.2d 797, 800 (Cal. 1997) (minors do not need parental input to get abortion).

42 Right to counsel is discretionary unless the respondent requests counsel; then it is mandatory.

ington WASH. REV. CODE §§ 71.05.360(5)(b), 71.05.300(2); *West Virginia* W. VA. CODE §§ 27-5-2(e), 27-5-4(h)(2); *Wisconsin* WIS. STAT. ANN. §§ 51.15(9), 51.60(1); *Wyoming* WYO. STAT. ANN. § 25-5-119(b)

10. Civil Contempt – General

Discretionary: *Arizona* ARIZ. REV. STAT. ANN. § 8-234(G); *New Hampshire* DUVAL v. Duval, 322 A.2d 1 (N.H. 1974); *New York* N.Y. JUD. LAW § 770; *Holmes v. Holmes*, 454 N.Y.S.2d 22 (N.Y. App. Div. 1982); *Virginia* *Krieger v. Commonwealth*, 567 S.E.2d 557 (Va. Ct. App. 2002)

Mandatory: *Alabama* ALA. CODE § 15-12-20; *Leftwich v. Vansandt*, 995 So. 2d 172, 174 (Ala. Civ. App. 2008); *Alaska* *Ottom v. Zaborac*, 525 P.2d 537, 538 (Alaska 1974); *Arkansas* ARK. CODE ANN. § 16-87-306; *Delaware* *Black v. Division of Child Support Enforcement*, 686 A.2d 164, 169 (Del. 1996); *Kentucky* KY. REV. STAT. ANN. § 31.110; *Lewis v. Lewis*, 875 S.W.2d 862, 863–64 (Ky. 1993); *Michigan*⁴³ *People v. Johnson*, 283 N.W.2d 632, 633–34 (Mich. 1979); *New Jersey* *New Jersey Administrative Office of the Courts Directive #15-08* (Nov. 17, 2008); *Oklahoma* OKLA. STAT. tit. 12, ch. 2, app., R. 29; *Oregon* OR. REV. STAT. § 33.055(8); *Texas* TEX. CODE CRIM. PROC. ANN. 1.051(c) [2017]; *In re B.A.M.*, 980 S.W.2d 788, 790 n.4 (Tex. App. 1998); *West Virginia* W. VA. CODE § 29-21-2(2)

Qualified:⁴⁴ *District of Columbia* *Brooks v. United States*, 686 A.2d 214 (D.C. 1996); *Iowa* *McNabb v. Osmundson*, 315 N.W.2d 9 (Iowa 1982); *Maryland* MD. CODE ANN., CRIM. PROC. § 16-204(b)(1)(iv); *Michigan* *Mead v. Batchlor*, 460 N.W.2d 493 (Mich. 1990); *Nebraska* *Allen v. Sheriff of Lancaster County*,

511 N.W.2d 125 (Neb. 1994); *North Dakota* *Peters-Riemers v. Riemers*, 663 N.W.2d 657 (N.D. 2003); *South Dakota* *Thomerson v. Thomerson*, 387 N.W.2d 509 (S.D. 1986) (abrogated on other grounds by *Sazama v. State ex rel. Muilenberg*, 729 N.W.2d 335 (S.D. 2007)); *Tennessee* *Bradford v. Bradford*, No. 86-262-II (Tenn. Ct. App. March 7, 1986); *Vermont* *Russell v. Armitage*, 697 A.2d 630, 633–34 (Vt. 1997); *Choiniere v. Brooks*, 660 A.2d 289, 289–90 (Vt. 1995)

11. Civil Contempt – Child Support

Discretionary: *Nevada* *Rodriguez v. Eighth Judicial District Court*, 102 P.3d 41, 43 (Nev. 2004)

Mandatory: *Connecticut* CONN. GEN. STAT. ANN. § 46b-231(m)(7); *Indiana* *Moore v. Moore*, 11 N.E.3d 980 (Ind. Ct. App. 2014); *Minnesota* MINN. GEN. R. PRAC. 357.03; *Cox v. Slana*, 355 N.W.2d 401, 403 (Minn. 1984); *New York* N.Y. FAM. CT. ACT §§ 262(a)(vi), 453(b); *In re Broome County Department of Social Services v. Mitchell*, 847 N.Y.S.2d 692, 693 (N.Y. App. Div. 2007); *In re Circe v. Circe*, 733 N.Y.S.2d 315, 316 (N.Y. App. Div. 2001); *Ohio* OHIO REV. CODE ANN. § 2705.031(C)(2); *Texas* TEX. FAM. CODE ANN. § 157.163(b); *Wisconsin*⁴⁵ *State v. Pultz*, 556 N.W.2d 708, 715 (Wis. 1996)

Qualified: *Kansas*⁴⁶ *Johnson v. Johnson*, 721 P.2d 290 (Kan. Ct. App. 1986); *North Carolina*⁴⁷ *McBride v. McBride*, 431 S.E.2d 14 (N.C. 1993); *Washington* *Tetro v. Tetro*, 544 P.2d 17, 19–20 (Wash. 1975) (en banc)

12. Civil Forfeiture

Discretionary: *Alaska* *Resek v. State*, 706 P.2d 288, 289 (Alaska 1985)

Mandatory: *South Dakota* *State v. \$1,010.00 in American Currency*, 722 N.W.2d 92 (S.D. 2006); *West Virginia* W. VA. CODE § 29-21-2(2); *Mooney v. Frazier*, 693 S.E.2d 333, 337 (W. Va. 2010)

Qualified: *Nebraska* NEB. REV. STAT. § 28-1601(3); *Pennsylvania* *Commonwealth v. Real Property and Improvements at 2338 N. Beechwood Street*, 65 A.3d 1055, 1067 n.24 (Pa. Commw. Ct. 2013)

13. Custody Dispute – Parents

Discretionary: *Hawaii* HAW. REV. STAT. § 587A-17(a); *Michigan* MICH. COMP. LAWS § 722.26e

Mandatory: *Arizona* ARIZ. REV. STAT. ANN. § 8-824(D); *Arkansas* ARK. CODE ANN. § 9-27-216(h)(1)(A); *New York* N.Y. FAM. CT. ACT § 262(a)(iii)

14. Custody Dispute – Children

Discretionary: *Alaska* ALASKA STAT. § 25.24.310(a); *Arizona*⁴⁸ ARIZ. REV. STAT. ANN. § 25-321; *Connecticut* *Yontef v. Yontef*, 440 A.2d 899 (Conn. 1981); *Idaho* IDAHO CODE § 15-5-207(5); *Illinois* 750 ILL. COMP. STAT. 5/506(a); *Louisiana* LA. REV. STAT. ANN. § 9:345(A); *Maryland* MD. CODE ANN., FAM. LAW § 1-202; *Michigan* MICH. COMP. LAWS § 722.24(2); *Nebraska* NEB. REV. STAT. § 42-358(1); *New Jersey* N.J. STAT. ANN. § 5:8A; *New Mexico* N.M. STAT. ANN. § 40-4-8; *New York* N.Y. JUD. LAW § 35(8); *In re Wilson v. Bennett*, 724 N.Y.S.2d 520 (N.Y. App. Div. 2001); *Ohio* OHIO R. CIV. P. 75(B)(2); *Pennsylvania* PA. R. CIV. P. 1915.11(a);

43 Right to counsel is for a testifying witness.

44 Status of mandatory right to counsel in these states is unclear after *Turner v. Rogers*, 564 U.S. 431 (2011).

45 Right to counsel applies in a case of remedial contempt.

46 Status of mandatory right to counsel is unclear after *Turner v. Rogers*, 564 U.S. 431 (2011).

47 *Id.*

48 Right to counsel applies to the minor child.

Washington [WASH. REV. CODE § 26.09.110](#);
West Virginia [W. VA. CODE § 48-9-302](#)

Mandatory: **Oregon** [OR. REV. STAT. § 107.425\(6\)](#)

15. Divorce – Married Adult

Discretionary: **Delaware** [DEL. CODE tit. 13 § 1516\(c\)](#); **District of Columbia** [D.C. CODE § 16-918](#); **Massachusetts** [Peace v. Peace](#), 288 N.E.2d 602 (Mass. 1972)

Qualified: **Nebraska**⁴⁹ [NEB. REV. STAT. § 42-362](#)

16. Divorce – Minor Children

Discretionary: **Alaska** [ALASKA STAT. § 25.24.310\(a\)](#); **Connecticut** [CONN. GEN. STAT. ANN. § 46b-54\(a\)–\(b\)](#); **District of Columbia** [D.C. CODE § 16-918](#); **Illinois** [750 ILL. COMP. STAT. 5/506\(a\)](#); **Iowa** [IOWA CODE § 598.12\(1\)](#); **Rhode Island** [R.I. GEN. LAWS § 15-5-16.2\(c\)\(1\)](#); **Vermont** [VT. STAT. ANN. 15 § 594\(a\)](#); **Washington** [WASH. REV. CODE § 26.09.110](#); **Wyoming** [WYO. STAT. ANN. § 14-2-823\(g\)](#)

Qualified: **Massachusetts**⁵⁰ [Balboni v. Balboni](#), 654 N.E.2d 937 (Mass. App. Ct. 1995)

17. Domestic Violence – Alleged Victim

Discretionary: **Alaska**⁵¹ [ALASKA STAT. § 18.66.100\(a\)](#); **California** [CAL. FAM. CODE § 6386](#); **District of Columbia** [D.C. CODE § 16-1003](#); **Idaho** [IDAHO CODE § 39-6306\(1\)](#); **Illinois** [750 ILL. COMP. STAT. 60/202\(d\)](#); **Washington** [WASH. REV. CODE § 7.90.070](#); **Wyoming** [WYO. STAT. ANN. §§ 7-3-507\(d\), 35-21-103\(e\)](#)

Mandatory: **Nebraska**⁵² [NEB. REV. STAT. § 42-907\(4\)](#); **New Jersey**⁵³ [J.L. v. G.D.](#), 29 A.3d 752 (N.J. Super. Ct. Ch. Div. 2010); **New York** [N.Y. JUD. LAW § 35\(8\)](#); [N.Y. FAM. CT. ACT §§ 262\(a\)\(ii\), 1120\(a\)](#); **Ohio**⁵⁴ [In re D.L.](#), 937 N.E.2d 1042 (Ohio Ct. App. 2010); **Texas** [TEX. FAM. CODE ANN. § 81.007\(a\)](#); [Striedel v. Striedel](#), 15 S.W.3d 163, n.2 (Tex. App. 2000)

18. Domestic Violence – Accused Person

Discretionary: **Idaho** [IDAHO CODE § 39-6306\(1\)](#); **Texas** [Cox v. Simmons](#), No. 07-07-0320-CV (Tex. App. Aug. 24, 2007); [Lopez v. State](#), 2003 WL 23015072, at *3 (Tex. App. 2003)

Mandatory: **New York** [N.Y. JUD. LAW § 35\(8\)](#); [N.Y. FAM. CT. ACT §§ 262\(a\)\(ii\), 1120\(a\)](#)

19. Education – Truancy

Discretionary: **Illinois** [750 ILL. COMP. STAT. 5/506\(a\)](#); **Texas** [TEX. FAM. CODE ANN. § 65.059\(b\)](#)

Mandatory: **Arizona** [Lana A. v. Woodburn](#), 116 P.3d 1222, 1225 (Ariz. Ct. App. 2005) (interpreting [ARIZ. REV. STAT. ANN. § 8-221\(A\)](#)); **Nevada** [NEV. REV. STAT. §§ 62D.030, 201.090\(11\)](#)

20. Guardianship/Conservatorship of Adults – Appointment

Discretionary: **Indiana** [IND. CODE §§ 29-3-5-1\(c\), 29-3-8.5-1, 29-3-8.5-7](#); **Nebraska** [NEB. REV. STAT. § 30-2619\(b\)](#); **New Jersey**⁵⁵ [N.J. STAT. ANN. § 3B:13A-3](#); **Oregon** [OR. REV. STAT. §§ 125.025\(3\)\(b\), 125.080\(4\), 125.300–](#)

[125.330](#); **Pennsylvania** [20 PA. CONS. STAT. § 5511\(a\)](#); **Virginia** [VA. CODE ANN. § 64.2-2006](#)

Mandatory: **Alabama** [ALA. CODE § 26-2A-102\(b\)](#); **Alaska** [ALASKA STAT. § 13.26.226\(b\)](#); **Arizona** [ARIZ. REV. STAT. ANN. §§ 14-5303\(C\), 14-5401.01\(C\)](#); **California** [CAL. HEALTH & SAFETY CODE § 416.95](#)⁵⁶; [CAL. PROB. CODE § 1471\(a\)](#)⁵⁷; **Colorado** [COLO. REV. STAT. § 15-14-305\(2\)](#); **Connecticut** [CONN. GEN. STAT. ANN. §§ 45a-649\(a\), 45a-673](#); **Delaware** [DEL. CH. CT. R. 176\(a\)](#); **District of Columbia** [D.C. CODE §§ 21-2041\(d\), 21-2046\(b\)\(3\)](#); **Florida** [FLA. STAT. § 744.331](#); [Martinez v. Cramer](#), 121 So. 3d 580, 583 (Fla. Dist. Ct. App. 2013); **Georgia** [GA. CODE ANN. § 29-4-11\(c\)\(1\)\(D\)](#); **Idaho** [IDAHO CODE § 15-5-303\(b\)](#); **Illinois** [755 ILL. COMP. STAT. 5/11a-10\(b\)](#); **Iowa** [IOWA CODE §§ 633.561\(1\)\(a\), 633.575](#); **Kansas** [KAN. STAT. ANN. § 59-3063\(a\)\(3\)](#); **Kentucky** [KY. REV. STAT. ANN. § 387.560](#); **Louisiana** [LA. REV. STAT. ANN. § 46:432](#); **Maine** [ME. REV. STAT. ANN. tit. 18-A §§ 5-303\(b\), 5-310-A\(a-1\)](#); **Maryland** [MD. CODE ANN., EST. & TRUSTS § 13-705\(d\)](#); [In re Lee](#), 754 A.2d 426, 438–39 (Md. Ct. Spec. App. 2000); **Massachusetts** [MASS. GEN. LAWS ch. 190B, § 5-106\(a\)](#); **Michigan** [MICH. COMP. LAWS §§ 330.1615, 700.5305](#); **Minnesota** [MINN. STAT. § 52A.5-304\(b\)](#); **Missouri** [MO. REV. STAT. §§ 475.062, 475.075](#); **Montana** [MONT. CODE ANN. §§ 47-1-104\(4\)\(b\)\(vii\), 72-5-315](#); **Nevada** [NEV. REV. STAT. § 159.0485\(2\)](#); **New Hampshire** [N.H. REV. STAT. ANN. § 464-A:6\(I\)](#); **New Jersey**⁵⁸ [N.J. STAT. ANN. §§ 3B:12-24.1, 30:4-165.14](#); **New Mexico** [N.M. STAT. ANN. §§ 27-7-27\(A\)\(2\), 45-5-303\(C\), 45-5-407\(b\), 45-5-408\(b\)](#); **New York** [N.Y. MENTAL HYG. LAW §§ 81.10, 81.11\(e\)](#); **North Carolina** [N.C. GEN. STAT. §§ 7A-451\(a\)\(13\)](#),

⁵² Statute allows for emergency legal counseling.

⁵³ Right to counsel is mandatory for an alleged minor victim against a defendant with counsel.

⁵⁴ Right to counsel applies when the alleged victim is a minor.

⁵⁵ Discretionary right to counsel applies to conservatorship.

⁵⁶ Statute guarantees the right to counsel when the proposed ward is developmentally disabled.

⁵⁷ Statute guarantees the right to counsel when the proposed ward is not developmentally disabled.

⁵⁸ Right to counsel applies to guardianship.

⁴⁹ Right to counsel is mandatory if spouse is mentally ill.

⁵⁰ Right to counsel is mandatory if the Department of Social Services becomes involved.

⁵¹ Right to counsel applies if alleged victim is a minor.

35A-1107(a); **North Dakota** N.D. CENT. CODE § 30.1-28-03(3); **Ohio** OHIO REV. CODE ANN. § 2111.02(C)(7)(d); **Oklahoma** OKLA. STAT. tit. 30, § 3-107(A)–(B); **Rhode Island** R.I. GEN. LAWS § 33-15-7(e); **South Carolina** S.C. CODE ANN. § 62-5-303(b); **South Dakota** S.D. CODIFIED LAWS § 29A-5-309; **Tennessee** TENN. CODE ANN. § 34-1-125; **Texas** TEX. EST. CODE ANN. §§ 1054.001, 1202.101; **Utah** UTAH CODE ANN. § 75-5-303(2); **Vermont** VT. STAT. ANN. 14 § 3065(a), 18 § 9308; **Washington** WASH. REV. CODE § 11.88.045(1)(a); **West Virginia** W. VA. CODE § 44A-2-7(a); **Wisconsin** WIS. STAT. ANN. § 54.42(1); **Wyoming** WYO. STAT. ANN. §§ 3-1-205(a), 3-2-101(a)(ii)

Qualified: **Arkansas** ARK. CODE ANN. § 16-87-306; *Honor v. Yamuchi*, 820 S.W.2d 267, 269 (Ark. 1991); **Hawaii**⁵⁹ HAW. REV. STAT. § 560:5-305(b)

21. Guardianship/Conservatorship of Adults – Review/Termination

Discretionary: **Kansas** KAN. STAT. ANN. § 59-3091(f)(1); **Kentucky** KY. REV. STAT. ANN. § 387.620(4); **Montana** MONT. CODE ANN. § 72-5-325; **Nebraska** NEB. REV. STAT. § 30-2623(c); **Nevada** NEV. REV. STAT. § 159.1905; **Oklahoma** OKLA. STAT. tit. 30, § 4-308(F); **Oregon** OR. REV. STAT. § 125.090; **Pennsylvania** 20 PA. CONS. STAT. § 5512.2; **South Dakota** S.D. CODIFIED LAWS § 29A-5-508

Mandatory: **Arizona** ARIZ. REV. STAT. ANN. § 14-5310(C); **Colorado** COLO. REV. STAT. § 15-14-318(3); **Connecticut** CONN. GEN. STAT. ANN. §§ 45a-660(c), 45a-681(a)(3); **District of Columbia** D.C. CODE § 21-2049; **Florida** FLA. STAT. § 744.464(2)(e); **Georgia** GA. CODE ANN. § 29-4-42(a); **Illinois** 755 ILL. COMP. STAT. 5/11a-21(a); **Louisiana** LA. REV. STAT. ANN. § 46:432; **Maine** ME. REV. STAT. ANN. tit. 18-A § 5-307(c); **Maryland**

59 Right to counsel is discretionary unless the respondent requests counsel; then it is mandatory.

MD. CODE ANN., FAM. LAW § 14-404(c)(2); **Massachusetts** MASS. GEN. LAWS ch. 190B, § 5-311(c); **Michigan** MICH. CT. R. 5.408; **Minnesota** MINN. STAT. § 524.5-317(c); *Greer v. Professional Fiduciary Incorporated*, 792 N.W.2d 120, 127–28 (Minn. Ct. App. 2011); **Missouri** MO. REV. STAT. § 475.083(6); **New Hampshire** N.H. REV. STAT. ANN. § 464-A:40(II)(c); **New Mexico** N.M. STAT. ANN. § 45-5-307(D); **North Carolina**⁶⁰ N.C. GEN. STAT. § 35A-1130(a), (c); **North Dakota** N.D. CENT. CODE § 30.1-28-07; *Ohio State ex rel. McQueen v. Court of Common Pleas of Cuyahoga County*, 135 Ohio St. 3d 291, 2013-Ohio-65, 986 N.E.2d 925 (Ohio 2013); **Texas** TEX. EST. CODE ANN. §§ 1054.001, 1202.101; **Utah** UTAH CODE ANN. § 75-5-307(3); **Vermont** VT. STAT. ANN. 14 § 3065(a), 18 § 9308; **West Virginia** W. VA. CODE § 44A-4-6(c); **Wisconsin** WIS. STAT. ANN. § 54.64(2)(b)

Qualified: **Alabama** ALA. CODE § 26-A-110(c); **Hawaii**⁶¹ HAW. REV. STAT. § 560:5-318(c); **Idaho** IDAHO CODE § 15-5-307(c); **New York** *In re Turner*, 730 N.Y.S.2d 188 (N.Y. App. Div. 2001); *In re Diurno*, 696 N.Y.S.2d 769 (N.Y. Sup. Ct. 1999)

22. Indigent Prisoner Representation

Discretionary: **Arkansas**⁶² ARK. R. CRIM. PROC. 37.3; **California** *Yarbrough v. Superior Court*, 702 P.2d 583 (Cal. 1985); *Payne v. Superior Court*, 553 P.2d 565, 576, 578–79 (Cal. 1976); **Delaware** *Deputy v. Conlan*, No. N12C-05-163 (Del. Super. Ct. April 1, 2015); *Vick v. Department of Correction*, 1986 Del.

60 Statute requires an attorney or a guardian ad litem.

61 Right to counsel is discretionary unless the respondent requests counsel; then it is mandatory.

62 “Counsel is statutorily provided on a discretionary basis in post-conviction hearings where the petitioner has made a prima facie showing that he or she is entitled to relief” (*American Bar Association, Directory of Law Governing Appointment of Counsel in State Civil Proceedings*: Arkansas 13 (2014)).

Super. LEXIS 1246 at *6–7 (Del. Super. Ct. April 14, 1986); **Illinois** *Tedder v. Fairman*, 441 N.E.2d 311, 315 (Ill. 1982); **Kansas**⁶³ KAN. STAT. ANN. § 21-2512(e); **Michigan**⁶⁴ *In re Parole of Hill*, 827 N.W.2d 407 (Mich. Ct. App. 2012); **Washington**⁶⁵ *Honore v. Washington State Board of Prison Terms and Paroles*, 466 P.2d 485, 493 (Wash. 1970) (en banc); **Wisconsin**⁶⁶ *Office of the State Public Defender v. Circuit Court for Dodge County*, 312 N.W.2d 767 (Wis. 1981)

Mandatory: **California**⁶⁷ CAL. GOV’T CODE § 68662; **Connecticut**⁶⁸ CONN. GEN. STAT. ANN. § 51-296(a); *Sinchak v. Commissioner of Correction*, 14 A.3d 343 (Conn. App. Ct. 2011); *Small v. State*, 920 A.2d 1024, 1026–27 (Conn. App. Ct. 2007); **Kansas**⁶⁹ KAN. STAT. ANN. § 22-4506(a)–(b); **Kentucky**⁷⁰ KY. R. CIV. P. 17.04(1); *May v. Coleman*, 945 S.W.2d 426, 427 (Ky. 1997); *Davidson v. Boggs*, 859 S.W.2d 662, 665 (Ky. Ct. App. 1993); **Massachusetts**⁷¹ *Commonwealth v. Patton*, 934 N.E.2d 236 (Mass. 2010); **Montana** MONT. CODE ANN. §§ 46-21-201(2),⁷² 47-1-104(4)(a)(vi),⁷³ *Office of State Public Defender v. Montana Eighteenth Judicial District Court*, 255 P.3d 107, 109 (Mont. 2011) (citing *State v. Bromgard*,

63 Discretionary right to counsel applies to murder and rape convicts petitioning for DNA testing of biological evidence.

64 Discretionary right to counsel applies in an appeal of the parole board’s decision to grant parole.

65 Discretionary right to counsel applies in habeas corpus proceedings.

66 Discretionary right to counsel applies in cases about the conditions of confinement.

67 Right to counsel applies in habeas corpus capital cases.

68 Right to counsel applies in habeas corpus proceedings.

69 *Id.*

70 Right to counsel applies in actions brought against the prisoner.

71 Right to counsel applies in probation-revocation and probation-violation hearings.

72 Statute requires right to counsel in postconviction relief hearings.

73 Statute requires right to counsel in habeas corpus proceedings.

948 P.2d 182, 185 (Mont. 1997));⁷⁴ **North Carolina**⁷⁵ N.C. GEN. STAT. § 7A-451(a)(2), (4), (5); **Oregon**⁷⁶ OR. REV. STAT. § 138.590(4); **South Dakota**⁷⁷ S.D. CODIFIED LAWS § 21-27-4; **Virginia**⁷⁸ VA. CODE ANN. § 53.1-40; **West Virginia**⁷⁹ W. VA. CODE § 29-21-2(2)

23. Involuntary Medical Treatment

Discretionary: **North Carolina** N.C. GEN. STAT. § 122C-267(d)

Mandatory: **Alaska** Wetherhorn v. Alaska Psychiatric Institute, 156 P.3d 371, 383 (Alaska 2007); **California** CAL. WELF. & INST. CODE § 5346(c); **Colorado** COLO. REV. STAT. § 27-65-107(5); **People ex rel. Ofengand**, 183 P.3d 688, 692 (Colo. App. 2008); **Florida** FLA. STAT. §§ 394.4655(5), 394.467(4); **Hawaii** HAW. REV. STAT. §§ 334-125, 802-1; **Iowa** IOWA CODE § 125.78(1); IOWA CT. R. 13.3(3); **Massachusetts** MASS. GEN. LAWS ch. 190B, § 5-306A(a); **Minnesota** MINN. STAT. § 253B.07 subd. 2c; **New Jersey** N.J. STAT ANN. § 30:4-24.2(d)(2); **New York** N.Y. MENTAL HYG. LAW § 9.60(g); **Rivers v. Katz**, 495 N.E.2d 337, 344 (N.Y. 1986)

Qualified: **Kansas**⁸⁰ Merryfield v. State, 241 P.3d 573 (Kan. Ct. App. 2010)

24. Involuntary Quarantine/ Sterilization/Inoculation

Discretionary: **Illinois**⁸¹ 755 ILL. COMP. STAT. 5/11a-17.1(d)

Mandatory: **Alaska** ALASKA STAT. § 18.85.100(a-b); **Arizona** ARIZ. REV. STAT. ANN. §§ 36-726(H), 36-789(M); **Colorado**⁸² COLO. REV. STAT. § 27-10.5; **Connecticut** CONN. GEN. STAT. ANN. §§ 19a-131b(g), 19a-131e(d); **Delaware** DEL. CODE tit. 20 § 3136(7)(b); **District of Columbia** D.C. CODE § 16-2304(b)(1); D.C. SUPER. CT. R. NEGLECT & ABUSE PROC. 6; **Florida** FLA. STAT. § 392.56(3)(c); **Hawaii** HAW. REV. STAT. § 325-8; **Idaho** IDAHO CODE § 39-3905; **Illinois** 20 ILL. COMP. STAT. 2305/2(c); **Indiana** IND. CODE § 16-41-9-1.5(s); **Maine** ME. REV. STAT. ANN. tit. 22 § 811(6)(C); **Maryland** MD. CODE ANN., HEALTH-GEN. § 18-906(c); MD. CODE ANN., PUB. SAFETY § 14-3A-05(f)(2); **Massachusetts** MASS. GEN. LAWS ch. 111, § 94C(1); **Minnesota** MINN. STAT. §§ 144.4176 subd. 2(4), 144.4195 subd. 5(b), 144.4809 subd. 3(2); **Missouri** MO. REV. STAT. § 199.200(2); **Nevada** NEV. REV. STAT. § 441A.660(1); **New Jersey**⁸³ N.J. STAT ANN. § 30:4-24; **New Mexico** N.M. STAT. ANN. §§ 24-1-15(G), 24-1-15.1(H); **New York** In re Rapoport v. G.M., 657 N.Y.S.2d 748, 748-49 (N.Y. App. Div. 1997); **North Carolina** N.C. GEN. STAT. §§ 7A-451(a)(17), 130A-145(d), 130A-475(b); **North Dakota** N.D. CENT. CODE § 23-07.6-03; **Oregon** OR. REV. STAT. § 436.265; **South Carolina** S.C. CODE ANN. §§ 44-4-540(F), 44-29-115; **Utah** UTAH CODE ANN. §§ 26-6b-4(3)(a), 62A-6-111(1); **Vermont** VT. STAT. ANN. 18 § 8710; **West Virginia** W. VA. CODE § 16-3D-9(b); **Wisconsin** WIS. STAT. ANN. § 252.07(9)(d)

81 The civil right to counsel for involuntary sterilization is discretionary unless the ward requests counsel.

82 Right to counsel applies to the developmentally disabled.

83 Right to counsel applies to conservatorship.

25. Paternity – Defendant/ Respondent

Discretionary: **Delaware** Allen v. Division of Child Support Enforcement, 575 A.2d 1176, 1178, 1185 (Del. 1990); **Hawaii** HAW. REV. STAT. § 584-19(a); **Massachusetts**⁸⁴ MASS. GEN. LAWS ch. 209C, § 7; **Nevada** NEV. REV. STAT. § 126.201(1); **New Mexico** N.M. STAT. ANN. §§ 32A-1-19(A)(1)-(2), 40-11A-641(A); **North Carolina** Wake County v. Townes, 293 S.E.2d 95 (N.C. 1982)

Mandatory: **Alabama** ALA. CODE § 15-12-20; **Connecticut** CONN. GEN. STAT. ANN. § 46b-160(e)(2); CT. R. SUPER. CT. § 25-68(a); **Michigan** MICH. COMP. LAWS § 722.714(4); MICH. CT. R. 3.217; **Minnesota** MINN. STAT. § 257.69 subd. 1; **Montana** MONT. CODE ANN. §§ 40-6-119(1), 47-1-104(4) (a)(ii), (c); **New Jersey** M. V. S., 404 A.2d 653, 656 (N.J. Super. Ct. Law Div. 1979); **New York** N.Y. JUD. LAW § 35(8); N.Y. FAM. CT. ACT §§ 262(a)(viii), 1120(a)

Qualified: **Alaska**⁸⁵ Reynolds v. Kimmons, 569 P.2d 799, 803 (Alaska 1977); **California**⁸⁶ Salas v. Cortez, 593 P.2d 226, 234 (Cal. 1979); **Nebraska**⁸⁷ Carroll v. Moore, 423 N.W. 2d 757, 766-67 (Neb. 1988); **Ohio**⁸⁸ State ex rel. Cody v. Toner, 456 N.E.2d 813 (Ohio 1983); **Pennsylvania** Gardner v. Gardner, 538 A.2d 4, 9 (Pa. Super. Ct. 1988); Banks v. Randle, 486 A.2d 974, 977 (Pa. Super. Ct. 1984); White v. Gordon, 460 A.2d 828, 830 (Pa. Super. Ct. 1983); Corra v. Coll, 451 A.2d 480 (Pa. Super. Ct. 1982); **West**

74 Right to counsel applies in postconviction relief hearings.

75 Right to counsel applies in habeas corpus proceedings and probation-revocation and extradition hearings.

76 Right to counsel applies in postconviction proceedings.

77 Right to counsel applies in habeas corpus proceedings.

78 Right to counsel applies in cases regarding prisoners' incarceration.

79 Right to counsel applies in parole or probation revocations, sentence enhancements, and postconviction challenges.

80 Right to counsel applies to people challenging the quality of their sex-offender treatment.

84 Right to counsel applies when the case involves contested custody or visitation rights.

85 Right to counsel is mandatory when the petitioner is represented by the state.

86 Right to counsel is mandatory if the state appears as a party or on behalf of the mother.

87 The case does not make clear whether the right to counsel is established under federal or state law.

88 Right to counsel is mandatory when mother and child receive public assistance.

Virginia *Moore v. Hall*, 341 S.E.2d 703, 705 (W. Va. 1986); *State ex rel. Graves v. Daugherty*, 266 S.E.2d 142 (W. Va. 1980); *Wisconsin* *Wis. STAT. ANN. § 767.83(1)*

26. Paternity – Petitioner/Child

Discretionary: *Kansas* *KAN. STAT. ANN. § 23-2219(a)*; *Maryland* *Turner v. Whisted*, 607 A.2d 935, 940 (Md. 1992); *Massachusetts*⁸⁹ *MASS. GEN. LAWS ch. 209C, § 7*; *Nevada* *NEV. REV. STAT. § 126.201(1)*; *Wyoming* *WYO. STAT. ANN. § 14-2-812(b)*

Mandatory: *Illinois* *750 ILL. COMP. STAT. § 5/506(a)*; *Michigan* *MICH. COMP. LAWS § 722.714(4)*; *Minnesota* *MINN. STAT. § 257.69 subd. 1*; *Montana* *MONT. CODE ANN. §§ 40-6-119(1), 47-1-104(4)(a)(ii), (c)*; *Oregon* *OR. REV. STAT. § 109.072(5)*

Qualified: *Ohio*⁹⁰ *OHIO REV. CODE ANN. § 3111.07(A)*

27. Sex Offender Tier Classification

Mandatory: *District of Columbia* *D.C. CODE § 22-4004(c)(1)*; *Massachusetts* *MASS. GEN. LAWS ch. 6, § 178K(2)(c)*

28. Sex Offender – Confinement

Mandatory: *Arizona* *ARIZ. REV. STAT. ANN. § 36-3704(C)*; *California* *CAL. WELF. & INST. CODE §§ 6603(a), 6605(a)(3)*; *District of Columbia* *D.C. CODE § 22-3805*; *Florida* *FLA. STAT. § 394.916(3)*; *Illinois* *725 ILL. COMP. STAT. 207/25(c)(1)*; *Iowa* *IOWA CODE §§ 229A.6, 229A.7(1)*; *In re Detention of Mead*, 790 N.W.2d 104 (Iowa 2010); *Kansas* *KAN. STAT. ANN. § 59-29a06(b)*; *In re Ontiveros*, 287 P.3d 855, 863 (Kan. 2012); *Massachusetts* *MASS. GEN. LAWS ch. 123A, § 14(b)*; *Missouri* *MO. REV. STAT. §§ 632.489(3)(1), 632.492*; *Nebraska* *NEB. REV. STAT. §*

71-945; *New Hampshire* *N.H. REV. STAT. ANN. § 135-E:23*; *New Jersey* *N.J. STAT ANN. § 30:4-27.31*; *New York* *N.Y. MENTAL HYG. LAW §§ 10.06(c), 10.08(g)*; *North Dakota* *N.D. CENT. CODE §§ 25.03.3-09, 25.03.3-10*; *Pennsylvania* *42 PA. CONS. STAT. §§ 6403(b)(3), 6405*; *South Carolina* *S.C. CODE ANN. § 44-48-80(C)*; *In re Chapman*, No. 27705 (S.C. Feb. 15, 2017); *Texas* *TEX. HEALTH & SAFETY CODE ANN. § 841.005*; *Virginia* *VA. CODE ANN. § 37.2-906(C)*; *Washington* *WASH. REV. CODE § 71.09.050(1)*; *Wisconsin* *WIS. STAT. ANN. §§ 977.07(1), 980.03(2)(a)*

29. Termination of Parental Rights (State) – Parents

Discretionary: *Delaware* *DEL. FAM. CT. R. CIV. P. 206, 207*; *Minnesota* *MINN. STAT. § 260C.176 subd. 3(7)*; *2017 Minn. Laws 260C.163 subd. 3(c)*; *MINN. R. JUV. PROT. P. 25.02 subd. 2*; *Mississippi* *MISS. CODE ANN. §§ 43-21-201(2), 95-15-113(b), 99-18-13(2)*; *Nevada* *NEV. REV. STAT. § 128.100(2)*; *Vermont* *VT. STAT. ANN. 13 § 5232*, *Vt. R. FAM. P. 3*; *Wyoming* *WYO. STAT. ANN. § 14-2-318(a)*

Mandatory: *Alabama* *ALA. CODE § 12-15-305*; *Alaska* *ALASKA STAT. § 25.23.180(h)*; *Arkansas* *ARK. CODE ANN. § 9-27-216(h)(1)(A)*; *California* *CAL. FAM. CODE § 7862*; *Colorado* *COLO. REV. STAT. § 19-3-602(2)*; *People ex rel. Z.P.*, 167 P.3d 211, 213 (Colo. App. 2007); *Connecticut* *CONN. GEN. STAT. ANN. § 45a-717(b)*; *District of Columbia* *D.C. CODE § 16-2304(b)(1)*; *In re D.R.*, 541 A.2d 1260, 1266 (D.C. 1988); *Florida* *FLA. STAT. § 39.807(1)(a)*; *Georgia* *GA. CODE ANN. § 15-11-98(b)*; *In re J.M.B.*, 676 S.E.2d 9, 12 (Ga. Ct. App. 2009); *Idaho* *IDAHO CODE §§ 16-1615(2), 16-2009*; *Illinois* *705 ILL. COMP. STAT. 405/1-5(1)*; *In re Harrison*, 458 N.E.2d 146, 150 (Ill. App. Ct. 1983); *Indiana* *IND. CODE § 31-34-4-6*; *Iowa* *IOWA CODE §§ 232.113, 232.89*; *In re E.J.C.*, 731 N.W.2d 402, 404 (Iowa Ct. App. 2007); *Kansas*

KAN. STAT. ANN. §§ 38-2205(b), 38-2267(d); *In re T.M.C.*, 988 P.2d 241, 243 (Kan. Ct. App. 1999); *Kentucky* *KY. REV. STAT. ANN. §§ 625.0405, 625.080(3)*; *Louisiana* *LA. CHILD. CODE ANN. art. 1016*; *Maine* *ME. REV. STAT. ANN. tit. 22 § 4052(3)(H)*; *Maryland* *MD. CODE ANN., CRIM. PROC. § 16-204(b)(1)(vi)*; *In re Chaden M.*, 984 A.2d 420, 432 (Md. Ct. Spec. App. 2009); *Massachusetts* *MASS. GEN. LAWS ch. 119, § 29*; *Missouri* *MO. REV. STAT. § 211.462*; *Montana* *MONT. CODE ANN. § 41-3-425*; *Nebraska* *NEB. REV. STAT. § 43-279.01(1)(b)*; *Nevada*⁹¹ *NEV. REV. STAT. §§ 62D.210, 128.023*; *New Hampshire* *N.H. REV. STAT. ANN. § 170-C:10*; *New Mexico* *State ex rel. Children, Youth and Families Department v. Tammy S.*, 974 P.2d 158 (N.M. Ct. App. 1998); *North Carolina* *N.C. GEN. STAT. § 7A-451(a)(12), (15)*; *North Dakota* *N.D. CENT. CODE § 27-20-26*; *Ohio* *OHIO REV. CODE ANN. § 2151.352*; *Oklahoma* *In re D.D.F.*, 801 P.2d 703, 706 (Okla. 1990); *Oregon* *OR. REV. STAT. § 419B.518*; *In re K.A.S.*, 200 P.3d 567, 580 (Or. Ct. App. 2009); *Pennsylvania* *23 PA. CONS. STAT. § 2313(a.1)*; *Rhode Island* *R.I. R. JUV. P. 18(c)*; *South Carolina* *S.C. CODE ANN. § 63-7-2560(A)*; *South Dakota* *S.D. CODIFIED LAWS § 26-7A-31*; *Tennessee* *TENN. CODE ANN. § 37-1-126*; *Texas* *TEX. FAM. CODE ANN. § 107.013(a)*; *Utah* *UTAH CODE ANN. § 78A-6-1111*; *Virginia* *VA. CODE ANN. § 16.1-266(D)*; *Washington* *WASH. REV. CODE § 13.34.090*; *In re Welfare of G.E.*, 65 P.3d 1219 (Wash. Ct. App. 2003); *West Virginia* *W. VA. CODE §§ 29-21-2(2), 49-4-601(f)*; *Wisconsin* *WIS. STAT. ANN. § 48.23(2)*

30. Termination of Parental Rights (State) – Children

Discretionary: *Alaska* *ALASKA CHILD IN NEED OF AID R.P. 12*; *Arkansas* *ARK. CODE ANN. § 9-27-316(f)(2)*; *California* *CAL. WELF. & INST. CODE § 366.26(f)(1)*; *Connecticut* *CONN.*

⁸⁹ Right to counsel applies when the case involves contested custody or visitation issues.

⁹⁰ An independent counsel must be appointed for the child when the child's interests conflict with those of the mother.

⁹¹ Right to counsel is mandatory for parents of Native American children.

GEN. STAT. ANN. § 46b-136; **Florida** FLA. R. JUV. P. 8.217(a)–(b); **Hawaii** HAW. REV. STAT. § 587A-17(a); **Indiana** IND. CODE § 31-32-4-2(b); **Nevada** NEV. REV. STAT. § 128.100 (1); **New Hampshire** N.H. REV. STAT. ANN. § 169-C:10(I), (II)(b); **Ohio** *In re Williams*, 101 Ohio St. 3d 398, 2004-Ohio-1500, 805 N.E.2d 1110 (Ohio 2004); **South Carolina** S.C. CODE ANN. § 63-7-2560(A)–(B); **Wisconsin** WIS. STAT. ANN. § 48.235(1)(c), (3)

Mandatory: **Alabama**⁹² ALA. CODE §§ 12-15-102(10), 12-15-304(a); **Arizona** ARIZ. REV. STAT. ANN. § 8-221(B); *Daniel Y. v. Arizona Department of Economic Security*, 77 P.3d 55, 58 (Ariz. Ct. App. 2003); **Colorado**⁹³ COLO. REV. STAT. § 19-3-602; **District of Columbia** D.C. CODE § 16-2304(b)(5); **Georgia** GA. CODE ANN. § 15-11-98(a); **Idaho** IDAHO CODE § 16-1614; **Illinois** 750 ILL. COMP. STAT. 405/1-5(1); **Iowa** IOWA CODE § 232.113; **Kansas** KAN. STAT. ANN. § 38-2205(a); **Louisiana** LA. CHILD CODE ANN. art. 1016; **Maine** ME. REV. STAT. ANN. tit. 22 §§ 4005(1)(A), (F); **Maryland** MD. CODE ANN., FAM. LAW § 5-307(b); **Massachusetts** MASS. GEN. LAWS ch. 119, § 29; **Minnesota** MINN. STAT. §§ 260C.176 subd. 3(7), 260C.212 subd. 1(d); **2017 Minn. Laws 260C.163** subd. 3(c); **Mississippi** MISS. CODE ANN. §§ 43-21-121(4), 43-21-201(1); **Missouri** MO. REV. STAT. § 210.160; **Montana** MONT. CODE ANN. § 41-3-425; **New Jersey**⁹⁴ N.J. STAT ANN. § 30:4C-15.4; **New Mexico** N.M. STAT. ANN. § 32A-4-10(C); *State ex rel. Children, Youth and Families Department v. John R.*, 203 P.3d 167, 171 (N.M. Ct. App. 2009); **New York** N.Y. JUD. LAW § 35(7); N.Y. FAM. CT. ACT § 249(a); **North Carolina** N.C. GEN. STAT. § 7B-601; **North Dakota** N.D. CENT. CODE § 27-20-26; **Oklahoma** *In re Adoption of K.D.K.*, 940 P.2d 216 (Okla. 1997); *In re T.M.H.*, 613 P.2d 468, 470–71 (Okla. 1980);

92 The guardian ad litem must be a licensed attorney.

93 *Id.*

94 The statute requires a law guardian.

Pennsylvania 23 PA. CONS. STAT. § 2313(a); **South Dakota** S.D. CODIFIED LAWS § 26-7A-31; **Tennessee** TENN. CODE ANN. § 37-1-149; TENN. S. CT. R. 40(b)(1); **Texas** TEX. FAM. CODE ANN. § 107.012; **Utah** UTAH CODE ANN. § 78A-6-1111; **Vermont** VT. STAT. ANN. 13 § 5232; Vt. R. FAM. P. 3; **Virginia** VA. CODE ANN. § 16.1-266(A); **West Virginia** W. VA. CODE § 49-4-601(f)

Qualified: **Washington**⁹⁵ WASH. JUV. CT. R. 9.2(c)(1)

31. Termination of Parental Rights (Private) – Parents

Discretionary: **Texas** TEX. FAM. CODE ANN. § 107.021(a)

Mandatory: **Alaska**⁹⁶ ALASKA STAT. § 44.21.410(a); **Arizona** ARIZ. REV. STAT. ANN. §§ 8-221(B), 8-872(D); **Delaware** *Moore v. Hall*, 62 A.3d 1203, 1209 (Del. 2013); **District of Columbia** D.C. CODE § 16-831.02(c)(2)–(3); **Florida** *O.A.H. v. R.L.A.*, 712 So. 2d 4 (Fla. Dist. Ct. App. 1998); **Idaho** IDAHO CODE § 16-2009; **Indiana** *In re Petition of McClure*, 549 N.E.2d 392, 394 (Ind. Ct. App. 1990); **Iowa** *Crowell v. State Public Defender*, 845 N.W.2d 676 (Iowa 2014); **Maryland** MD. CODE ANN., FAM. LAW §§ 5-3A-07(a)(1), 5-3B-06(a)(1); MD. R. 9-106; *In re Chaden M.*, 984 A.2d 420, 432 (Md. Ct. Spec. App. 2009); **Massachusetts** MASS. GEN. LAWS ch. 119, § 29; *In re Adoption of J.E.V.*, 141 A.3d 254 (N.J. 2016); **New Mexico** N.M. Stat. Ann. § 32A-5-16(E); **South Carolina** *Broom v. Jennifer J.*, 742 S.E.2d 382 (S.C. 2013); **Tennessee** TENN. CODE ANN. § 37-1-126; **Utah** *Cache County v. Lauritzen (In re J.D.M.)*, 810 P.2d 494 (Utah Ct. App. 1991)

95 The court must appoint counsel if the child does not have a guardian ad litem.

96 Right to counsel applies when the opposing side has counsel provided by a public agency.

Qualified: **Illinois**⁹⁷ 750 ILL. COMP. STAT. 50/13(B)(c); *In re Adoption of L.T.M.*, 824 N.E.2d 221, 230 (Ill. App. Ct. 2005)

32. Termination of Parental Rights (Private) – Children

Discretionary: **Arkansas** ARK. CODE ANN. § 9-13-101(e)(2); **California** CAL. FAM. CODE § 7861; **District of Columbia** D.C. CODE § 16-914(g); **Idaho** IDAHO CODE § 15-5-212(3)

Mandatory: **Massachusetts** MASS. GEN. LAWS ch. 119, § 29; **Oklahoma** OKLA. STAT. tit. 10A, § 1-4-306; *Seal v. State (In re N.L.)*, 347 P.3d 301, 304 (Okla. Civ. App. 2014); **Texas** TEX. FAM. CODE ANN. § 107.021(a-1); **Utah** *Cache County v. Lauritzen (In re J.D.M.)*, 810 P.2d 494 (Utah Ct. App. 1991)

33. Visitation – Children

Discretionary: **Alaska**⁹⁸ ALASKA STAT. § 25.24.310(a); **Illinois**⁹⁹ 750 ILL. COMP. STAT. 5/506(a); **Louisiana**¹⁰⁰ LA. REV. STAT. ANN. § 9:345(A); **Maryland**¹⁰¹ MD. CODE ANN., FAM. LAW § 1-202; **New Jersey**¹⁰² N.J. STAT. ANN. § 5:8A; **New York** N.Y. JUD. LAW § 35(8); N.Y. FAM. CT. ACT § 262(a)(iii); *In re Wilson v. Bennett*, 724 N.Y.S.2d 520 (N.Y. App. Div. 2001); **Pennsylvania**¹⁰³ PA. R. CIV. P. 1915.11(a); **Washington**¹⁰⁴ WASH. REV. CODE § 26.09.110

97 The right to appointed counsel is mandatory if the claims of parental unfitness stem from a mental disability.

98 Right to counsel applies to the minor child.

99 *Id.*

100 *Id.*

101 *Id.*

102 *Id.*

103 *Id.*

104 *Id.*