

House Judiciary

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HB22-1038 Right To Counsel For Youth

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Michael Neil For Colorado Cross-Disability Coalition	Thank you Chairman Weissman, Vice-chair Tipper, and esteemed members of House Judiciary. My name is Michael Neil and I rise to strongly support HB 22-1038 on behalf of Colorado Cross Disability Coalition and on behalf of myself. Thank you Representatives Daughtery and Van Beber for bringing this bill. I think this will be some short testimony. CCDC, as a social justice organization, recognizes that the provision of a client-directed counsel for youth is a central feature of a fair justice system. While many of our members are not youths, we know that many people with disabilities are younger individuals and that such people require assistance in the judicial system in the same fashion as anyone else. Please support HB 22 1038.

Hello Mr. Chair and Members of the Committee.

My name is Elizabeth Arrieta and I am representing myself, as a youth who grew up in foster care. I would like to testify in support of HB22-1038 because it is important for children/youth to know that they always have a voice and I don't think that is said to them very much.

Seeing the statistics of the very small amount of participation there is in court hearings for example, is concerning, because the person's life who is being discussed should be there. The children/youth(s) life changes constantly and they need to be comfortable asking for help, support or guidance because they all deserve it.

Those youth who enter the foster care system at an early age and stay in the system, mature/grow a lot quicker than others because in many ways they are forced to grow up and get things done in certain ways. The least they deserve for not having their own family to care for them is the power to advocate for themselves and say when something is not okay and actually be heard and helped, instead of being questioned and kept in a bad place. The power to have the say in a children/youth's life should be up to the children/youth themselves.

I also have a huge belief that having a client-directed lawyer earlier than the age of 18, would help youth become more responsible for their own life and actually have more successful outcomes for their own future. Right now it's just at a point where a youth has people around them telling them what to do, and they either do it or they don't. When they do it it's only to be left alone from people pressuring them to get something done. I think how the system is right now is a huge factor in the lack of motivation for youth to do well in school/work for their own selves because they feel like they are just reporting their lives and being told what to do and feeling like they don't have much say.

Trust is a huge part of making this work, you need to trust members of your team and this bill will help youth get that trust with their attorney. I know what a difference that makes. I did not have trust with my first GAL and it was hard. Things were much better with my second GAL who I could trust. Having that confidential relationship will help all youth have that trust and ability to work better with their team so they can make good things happen. I have seen when other professionals don't listen to us, they think they know better and it makes it really important to have someone to advocate for what you want. Please vote yes on this bill.

February 16, 2022

Dear Chairman Weissman and members of the House Judiciary Committee:

I am writing to urge the committee to vote in support of HB22-1038, Right to Counsel for Youth. I currently work at a policy advocacy organization but am testifying on my own behalf as someone who previously represented children in neglect and abuse cases in New York between 2004 and 2012 and who saw the enormous benefits of client-directed legal representation.

Before 2007, attorneys for children in New York State were permitted to substitute judgment for their clients – basically to take positions on behalf of their clients that they believed were best for the child, whether or not that represented the wishes of their clients. What made this much more problematic is that the cultural and racial differences between the children involved in the system and the decision-makers were stark. In New York, as is true in Colorado, clients involved in the system were disproportionately low-income, disproportionately Black and Latinx, and disproportionately LGBTQ. The attorneys and judges, meanwhile, were often white and financially well-off.

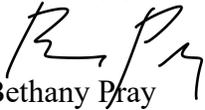
Substitution of judgment meant that the deeply-felt personal and cultural preferences of children and youth were often devalued or set aside, or were simply not expressed. I personally can't imagine sharing intimate information with a stranger who might use that disclosure to advocate against my wishes about whether my parent was found to have committed neglect or abuse, or about where I lived and with whom. In a system where young people were already experiencing trauma and losing home and family, the court system - despite very well-intentioned attorneys, judges and social workers - deprived them of autonomy and added to that sense of powerlessness and isolation.

The Chief Judge of New York issued rules in 2007 stating that the attorney should be directed by the child's wishes, even if those did not align with what the attorney believed was in the child's best interest. The rules clarified attorneys' duties to counsel their clients and discuss options and possible outcomes, and of course allowed for some exceptions. In my experience with the

hundreds of kids I represented, many under the age of 12, this resulted in better outcomes for my clients, since they inevitably knew better than I ever could what was important for their own happiness and sense of safety. A key factor is that it allowed for a much more trusting relationship between attorney and client. And the best interests analysis was left, appropriately, to the judge.

When I moved to Colorado in 2012, I did not pursue work as a Guardian ad Litem; I decided that I couldn't participate in a system where I would be expected to substitute judgment and where the confidentiality of my communications with my clients wasn't protected. I firmly believe this bill will improve those attorney-client relationships and appropriately give children and youth greater say in decisions that are crucial to their happiness and stability. I urge you to vote yes on HB22-1038.

Very truly yours,



Bethany Pray