

CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE

Minutes

August 20, 2018

Call to Order and Roll Call

The Child Welfare Oversight and Advisory Committee meeting was held on Monday, August 20, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Ben Payne, Analyst, called the meeting to order at 10:07 a.m., and the secretary called the roll.

Present were:

Members: Representative David Meade, Co-Chair; Senator Julie Raque Adams, Co-Chair, Senators Tom Buford, Denise Harper Angel, Reginald Thomas, and Whitney Westerfield; Representatives Lynn Bechler, Angie Hatton, Joni L. Jenkins.

Guests: First Lady Glenna Bevin; Eric T. Clark, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Lesa Dennis, Chief of Staff, Department for Community Based Services, Cabinet for Health and Family Services; Jennifer Warren, Executive Advisor, Department for Community Based Services, Cabinet for Health and Family Services; Kelly Stephens, Government Affairs Liaison, Administrative Office of the Courts; Rachel Bingham, Executive Officer, Family and Juvenile Services, Administrative Office of the Courts; and Adam Meier, Secretary, Kristi Putnam, Deputy Secretary, and Tim Feeley, Deputy Secretary, Cabinet for Health and Family Services.

LRC Staff: Ben Payne, Gina Rigsby, and Becky Lancaster.

Election of Senate and House Co-Chairs

A motion was made by Senator Westerfield and seconded by Senator Buford to nominate Senator Julie Raque Adams as Senate Co-Chair. A motion was made by Senator Westerfield and seconded by Senator Buford that nominations cease and Senator Raque Adams be elected Senate Co-Chair by acclamation.

A motion was made by Representative Bechler and seconded by Representative Jenkins to nominate Representative David Meade as House Co-Chair. A motion was made by Representative Bechler and seconded by Representative Hatton that nominations cease and Representative David Meade be elected House Co-Chair by acclamation.

Judicial Branch 2018 House Bill 1 Implementation Update

Kelly Stephens, Governmental Affairs Liaison, Administrative Office of the Courts (AOC), and Rachel Bingham, Executive Officer, Family and Juvenile Services, Administrative Office of the Courts (AOC), testified that the secretary of the Cabinet for Health and Family Service, the chief justice, and other agencies meet regularly to discuss common issues relating to juvenile justice and child welfare. The AOC was able to provide webinars to the Court of Justice to give an overview of House Bill 1 and is looking into being able to provide the webinar as a resource for public access. In June, a Family Law Conference was held that included judges and community and court partners to discuss the changes included in House Bill 1. In September and October, House Bill 1 will be discussed at Judicial Colleges for district court judges who still have some non-family jurisdictions and family court judges. There will be a session on House Bill 1 included in the Kentucky Law Updates to discuss the changes occurring from August to December of 2018. House Bill 1 changes have been integrated in the legal training for dependency, neglect, and abuse advocates such as Court Appointed Special Advocates (CASA), Foster Care Review Board, and social workers. House Bill 1 information was included as one of the topics for the Circuit Court Clerk Conference, and information was given to the clerks on updating their manuals and forms. The Citizen Foster Care Review Board (CFCRB) Executive Committee was briefed about changes enacted in House Bill 1. Regional trainings will be centered on the changes to legal proceedings and cabinet procedures.

The Family Court Rules of Procedure and Practice is being reviewed and updated by judges, attorneys, and agency representatives. The Supreme Court Standing Committee on Family Court Rules of Procedure and Practice will discuss recommendations and draft proposed changes. The Supreme Court will consider and adopt appropriate rules consistent with House Bill 1. The Appellate Courts revision to KRS 625:110 that requires the appeals and termination of parental rights cases shall be resolved within 90 days of presentation of the case to the appellate bench for a decision is still under development. In order to assist with the revision, the Supreme Court is expected to adopt the amendment to CR 76 which establishes an expedited briefing schedule and prohibits continuances except for good cause.

The AOC reviewed and updated forms related to House Bill 1. Collaboration has been done between AOC and CHFS to make sure the forms reflect federal requirements. House Bill 1 requires the Citizen Foster Care Review Boards to conduct regional community forums to discuss concern regarding the foster care system, including barriers to getting children into permanent homes in a timely manner and ensuring their wellbeing and safety while in foster and other out-of-home care. The findings from these forums will be included in the CFCRB's annual recommendations to the Supreme Court, governor, and the General Assembly. The CFCRB community forums will be an opportunity for AOC to gather new information and new data sets to identify areas for opportunities of improvement.

In response to a question by Senator Raque Adams, Ms. Stephens stated that trial judges are aware of the new deadlines required in House Bill 1 for involuntary cases as well as the appeals process. The Court of Appeals is currently operating the new rules required in House Bill 1 regarding the appeal of temporary parental rights (TPR) cases.

In response to questions by Representative Bechler, Ms. Bingham stated that the webinar will be available on the Court of Justice website the first part of September. The committee will be notified when the webinar is available. She said that she would follow up with the Court of Appeals to get examples of good cause to delay an expedited briefing and provide them to the committee. The intention is to cut down on continuances that may be necessary for any reason. Typically these cases are held up at the request of the attorneys who seek more time or there may be issues in locating records.

Senator Westerfield stated that AOC should keep track of how often and the rationale of each on why the courts deviated from an expedited briefing.

Executive Branch 2018 House Bill 1 Implementation Update

Eric T. Clark, Commissioner, Elizabeth Caywood, MSW/CSW, Deputy Commissioner, Lesa Dennis, Chief of Staff, and Jennifer Warren, Executive Advisor, Department for Community Based Service (DCBS), Cabinet for Health and Family Services, stated that the number of youth in out-of-home care (OOHC) has increased 22.5 percent from June 2014 in July 2018. Of the 9,528 youths in OOHC as of July 2018, 2,600 had a goal of adoption. The total DCBS and private child place (PCP) foster homes went from 4,401 in June 2014 to 4,579 in July 2018. The average number of months children remained in OOHC before reunification rose from 8.4 months in 2014 to 9.2 months in 2018. The average months for adoption remained steady from 2014 to 2018 except for 2016 where it rose to 37.9 months. In 2018, there were 1,026 youth adopted from OOHC and 601 youth aging out of the system. Kentucky is doing a better job with youth who formally spent extended periods of time in OOHC and either aging out of the system or exiting through another permanency goal other than adoption. Due to increased efforts, more of the youth are being adopted thereby decreasing the percent of adoptions occurring in less than 24 months and increasing the median length of stay for youth exiting through adoption. More youth are finding permanency prior to aging out of care. There was an eight percent increase in the number of reports that met acceptance criteria. There was an 11 percent increase in the number of reports with a substantiated or services needed finding in 2018 than 2016. In June 2016 there were 13,500 active cases and 14,838 in July 2018.

The DCBS calculates CPS caseloads on a weekly basis, and the calculation is at a statewide level, a regional level, a county level, a team level, and an individual worker level. Traditionally the department uses two methods to calculate caseloads, current caseloads and current caseloads including past due cases. Caseloads are not easy to calculate because of instability in the workforce with high turnover and an inexperienced staff. In 2016, the department began looking at caseloads differently in an efforts to capture

a more accurate reflection of what the frontline worker experiences. Caseloads were calculated excluding staff not at full capacity who are not carrying a caseload or carrying a partial caseload such as a new employee, staff on extended medical leave, or staff on desk duty due to disciplinary issue or other matters. Traditionally staff not at full capacity counted in the overall staffing members and have skewed caseloads making them look lower than what the actual worker was experiencing. In the fall of 2016, the department began excluding these staff in the calculations to get a more accurate count of caseload averages. The average child protective service (CPS) caseload for 2016 and 2017 was 18 and 19 for 2018. The average CPS caseload not at full capacity for 2016 and 2017 was 23 and 26 in 2018. The current average CPS caseload with past dues for 2016 and 2017 was 23 and 24 for 2018. The average CPS caseload not at full capacity with past dues for 2016 was 29, 30 for 2017, and 33 for 2018. The department adopted the recommendation of the LRC Program Review and Investigations Committee and changed the not at full capacity calculation to exclude only staff carrying 10 or less cases. House Bill 1 outlines more specific requirements in regards to expectations of the department when reporting on caseloads that exceed 25 active cases for 90 consecutive days. Previously only the statewide level of caseloads were reported, but starting October 2018, the department will start reporting at the statewide, regional, and county levels. Commissioner Clark stated that the levels are unacceptable. The goal is to reduce the number of children in OOHC, increase timeliness to permanency, and reduce caseloads.

In October 2017, the federal court made a ruling in the *DO v. Glisson Relative/Fictive Kin Foster Payments* lawsuit that relative caregivers and fictive kin raising kin children would receive the same rate of payment as a foster care caregiver. Eligibility requirements are: (1) individual must be a relative or fictive kin caregiver with an approved home evaluation; (2) the child must currently be in CHFS custody or the child has been placed in CHFS custody for the current removal period prior to the relative or fictive kin receiving temporary custody; and (3) the relative or fictive kin has not yet obtained permanent custody through a Permanent Custody Order (DNA-9). As of August 10, 2018, 1,012 relatives/fictive kin have been notified of eligibility. For June, payments were made for 516 children and 748 for July. To date, the cabinet has paid \$2,619,165 in foster care payment not including outstanding expenses. DCBS projects that it will cost approximately \$9 million from the ruling for this state fiscal year. The Kinship Support Hotline staff are available to assist caregivers in accessing services and problem solving issues and concerns by calling 877-565-5608 or DCBSChildProtection@ky.gov.

In April 2018, the cabinet implemented a project management structure with the central theme of child welfare transformation. The Stakeholder Advisory Group will meet on a quarterly basis, and the Steering Committee will meet bi-annually and both will discuss the progress of the project and will provide guidance to the project management team. The nine workgroups include workforce supports, transition aged youth, prevention supports, fiscal modernization, foster parent supports, foster adoptive process streamlining, relative place supports, service region implementation, and technology.

As of August 1, four administrative regulations (2 ordinary and two emergency) have been filed with the Legislative Research Commission (LRC) relating to provider rates. Three more administrative regulations and one repealer regarding adoption will be filed by September 14. Study groups were formed in August facilitated by DCBS and Case Family Programs. Standards of practice guiding field practice have been revised for disciplinary actions. Statutorily mandated reporting and submission requirements are under review that were affected by House Bill 1. Contracts with Family Preservation Program providers are being updated. House Bill 1 required that a putative father registry be established by July 14, 2018. An emergency and ordinary administrative regulations (922 KAR 1:560) were filed to affect the registry. Forms and information regarding the registry are available online.

In January 2019, KRS 620.180(2) relating to case review requirements, will become effective. Ongoing efforts are being coordinated with the courts, regional attorneys, private providers, and consults to effect more timely permanency for children. Efforts will be made to have a more expedient foster parent approval process and improve supports for foster parents. Kinship care includes relative caregiving. There is a Kinship Care Program in Kentucky that is established by administrative regulation that has been under a moratorium since 2013. Since 2017, the cabinet has been looking at relative caregiving and kinship care and engaged the Annie E. Casey Foundation to conduct a study group. The foundation surveyed family court judges, relative caregivers, youth in care, and DCBS staff statewide, and released a report in August. DCBS tries to place a child first with a willing relative first. Late winter/early spring 2019, the department will be able to fully implement the array of services to be offered to relative and fictive kin caregivers.

House Bill 200, the 2018-2020 budget bill, appropriated \$2.5 million tobacco funds for adoption and foster care, \$14 million for more staff and workforce supports, \$11 million in salary increases, \$1.8 million for Kinship Care, \$11.3 for relative placement supports, \$7.8 million in adoption savings, \$3.9 million in provider rates, and \$375,000 for the Fostering Success Program. Salary increases for 230 new positions were put into effect on July 1, 2018. Social service workers received a 7 percent salary increase and family services office supervisors received a 10 percent increase. On October 16, 2018, a reorganization plan to support enhanced service provision, new staff recruitment, and career ladder for staff will be put into place. Mobile technology and related solutions are being deployed to workers in the field. DCBS continues to voluntarily maintain and pursue accreditation through the Council on Accreditation of Child and Family Services. A foster and adoptive parent portal will be deployed in three phases beginning August 25, 2018. Private child care provider rate increases were implemented August 1, 2018. The Fostering Success program is a summer work program where partners will hire youth as they prepare to transition out of the foster care system.

On February 9, 2018, the federal Families First Prevention Services Act (FFPSA) was enacted. The state will be able to use federal Title IV-E funds for a portion or share of evidence-based prevention services and programs. Historically, these funds have been utilized for foster care maintenance and adoption assistance. Standards or criteria for the prevention services or programs and requirements affecting foster care maintenance payments are attached to the option. State funds must also be available to cover costs not associated with the federal share. States can opt in as early as October 1, 2019, but all states must comply by October 1, 2021. Kentucky will apply for funds in 2018 and hopefully approved by the federal government by October 1, 2019.

The Child Welfare Transformation Structure project encompasses implementation of House Bill 1, the Executive branch budget, the state's Program Improvement Plan resulting from the federal Child and Family Services Review, Family First Prevention Services Act, and the Governor's overall charge. Consultative resources have been secured through the federal Children's Bureau, Annie E. Casey Foundation, Casey Family Programs, Public Consulting Group, Mary Willoughby, university partners, and stakeholders. A communication plan is underway.

In response to questions by Senator Westerfield, Deputy Commissioner Caywood stated that there are regional differences in the reasons why the number of youth increased in OOHC. Over 70 percent of cases have a characteristic of some type of substance abuse/misuse. There has also been an increase in relative caregivers due to the *DO v Glisson* lawsuit. Senator Westerfield requested that the cabinet provide the reasons for the 22.5 percent increase. Ms. Dennis said that there are a lot of variables that have to be considered when figuring caseloads. Traditionally, caseloads were determined by looking at the current caseload of a worker and also looking at current caseloads with past dues. Traditionally, when calculating caseloads, staff that were not actually carrying a full caseload or not carrying a caseload at all for various reasons were included in the overall calculation, and it made it look as if staff were carrying lower caseloads. In 2016, the department began to identify staff not at full capacity and removed them from the overall caseload calculation. Cases are assigned and managed by the local family service office supervisor. The academy takes approximately four to five months and by the end of the academy, most staff have built up a full caseload. Deputy Commissioner Caywood stated that the department is working with the Kentucky State Police on background checks and fingerprinting. This past spring the department implemented the Adam Walsh agreements with all of the private agencies that facilitates their direct access to full criminal results in order to have the new ability through House Bill 1 using the cabinet's statutory authority. Licensure requirements for the private agencies to make sure their background checks will meet their licensure standards as well as to make sure there are no unintended consequences for the cabinet's foster care funding utilized for those agencies.

In response to questions by Senator Raque Adams, Deputy Commissioner Caywood stated that the vast majority of denials of why relative caregivers did not receive funds for

OOHC placement were based on the fact that the child was never in the cabinet's custody. The cabinet is looking to leverage some federal funds that will necessitate the State Plan amendments, and are working on a long-term policy solution that is congruent with the *DO v Glisson* ruling, but actually supersedes it. Senator Raque Adams asked that the committee receive a copy of the Annie E. Casey study. Deputy Commissioner Caywood stated that the foster/adoptive parent portal that will be implemented on August 25, 2018 would be for all DCBS publicly approved foster/adoptive homes, not private foster/adoptive homes. The funding for contracts with Family Preservation Program providers is a mixture of state general funds and the Temporary Assistance for Needy Families (TANF) block grant. Kevin Newton, Director, Division of Administration and Financial Management, Cabinet for Health and Family Services, stated that the contracts are mostly funded with federal funds. Deputy Commissioner Caywood stated that the statutory provision in existence for the Family Preservation Program tied it to one specific model and would not allow the program to service any others. House Bill 1 gave the cabinet the ability to get away from one specific model and add additional flexibility to serve individuals with substance abuse/misuse.

In response to a question by Senator Harper Angel, Commissioner Clark stated that the 230 positions that were funded in House Bill 200 are merit positions and would have to go through the KRS Chapter 18A process. Ms. Dennis stated that funding for the positions did not become available until July, but the cabinet intends to start the process of filling the positions soon. Senator Harper Angel asked that the cabinet report back to the committee on the progress of filling the positions.

In response to questions by Senator Buford, Commissioner Clark stated that it would be possible for the child welfare transformation governance groups to meet in conjunction with the committee. Ms. Warren stated that there is a stakeholder meeting that will include several youth not just the one sitting member. Deputy Commissioner Caywood stated that the House Bill 1 study group includes a foster youth.

In response to questions by Senator Thomas, Commissioner Clark stated that building the workforce will improve the length of time it takes a case worker to close an open case. If the department is working at full capacity and cannot get the case resolved in 45 days, the timeframe required in statute will need to be re-evaluated. Deputy Commissioner Caywood stated that there is an exception process for the 45-day timeframe. The department is developing a more robust service array, and part of the program development is to fully inform relative/fictive caregivers of all available options. A program already available to relative/fictive care caregivers is the TANF cash assistance program. A more streamlined process for relatives to become fully approved foster adoptive parents is being reviewed.

In response to questions by Representative Hatton, Ms. Dennis stated that the department will send the committee information on retirement statistics of case workers.

Currently, there are 116 frontline social work positions available that are in various stages to be filled. The number of positions stays about the same due to the turnover rate. There is greater turnover in Jefferson County, Hardin county, and Northern Kentucky. She agreed with Representative Hatton that two of the goals the committee should address is the enormous turnover rate and the experience lost when someone retires. Ms. Dennis stated that she would provide the committee with the statistics by region. Representative Meade stated that House Bill 1 requires the statistics pertaining to caseloads be provided by the cabinet.

In response to questions by Representative Bechler, Deputy Commissioner Caywood stated that under the Families First Prevention Services Act there is an opportunity to build a more robust service array wrapping services around the relative/fictive kin provider, but it does not address the cash benefit that relatives want. There is a relative placement support benefit that is an upfront benefit to help place the child in the home, a child-only Kentucky Transitional Assistance Program (KTAP) benefits, opportunities under *DO v Glisson*, as well benefits under the traditional foster care system. The department has limited funding to provide financial support to everyone. Representative Bechler stated that he would like to see consistent data reported.

In response to questions by Representative Jenkins, Deputy Commissioner Caywood stated that the Kinship Care Program rose to over \$50 million in 2014. Some projections have been done in regard to lifting the Kinship Care moratorium, and it would require over \$30 million a year. Representative Jenkins stated that the General Assembly needs to appropriate more funds in the 2020 budget. Keeping a child from state custody whenever it is appropriate is a good for the child.

Representative Meade stated that the child's safety should not be hindered in any way by making them remain with his or her family when it is not safe. In response to questions by Representative Meade, Deputy Commissioner Caywood stated that there is a workgroup dedicated to streamlining the foster parent approval process. Ms. Warren stated that in the Foster Parent Supports workgroup, there is a Diligent Recruitment Subcommittee that is looking at the issue. Part of the focus of the workgroup is to make more classes available when foster parents or prospective foster parents are more readily available. Deputy Commissioner Caywood stated that an in-state background check is done on all relatives. Relatives that qualify under the *DO v Glisson* or who wish to become foster adoptive parents, there are comprehensive fingerprint based background checks done both at the national and state levels.

Commissioner Clark stated that the Fostering Success program is available to a child that is aging out of the system as well as mentors that can teach them how to adjust to life on their own. Ms. Warren stated that in the Transition Aged Youth Workgroup has leveraged funds and working on a life book that prepares a child to know how to navigate outside of the system. Deputy Commissioner Caywood stated that the department is

starting at a younger age to prepare independent living skill sets, and the Families First Prevention Services Act extends the cabinet's ability to utilize federal funding for independent living services to youth aging out of foster care up to the age of 23 instead of the current age of 21.

Ms. Dennis stated that the reunification statistics provided include the children who were removed from a home for a short period of time but determined there was not a need for removal. If a child has been removed from a home multiple times, the statistics would show each as a separate removal. She agreed that if a child was removed multiple times, it would be better to count it as one consecutive removal. Ms. Warren stated that she would provide the committee information on the members of Stakeholder Advisory Group.

Commissioner Clark stated that he would provide the committee with a reorganization chart of the DCBS staff.

Adjournment

There being no further business, the meeting was adjourned at 11:51 a.m.