



# House Bill 1 Study Group: Privatization of Child Welfare Services Recommendations

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*Prepared by Chapin Hall at the University of Chicago*

This report is respectfully submitted to the Kentucky Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee pursuant to Kentucky Revised Statute (KRS) 620.345(5).

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# Executive Summary

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Kentucky House Bill 1 (HB 1) created a Study Group comprised of key child welfare leaders and stakeholders charged with developing a set of recommendations for performance-based contracting in child welfare services as well as assessing the feasibility of privatizing all foster care services in the Commonwealth. The Study Group delivered its recommendations to the legislature for performance based contracting on November 30, 2018. This report contains the Study Group's recommendations and observations related to privatization of foster care services, as well as Kentucky's child welfare transformation efforts more broadly.

The Study Group met regularly between January and June 2019 to examine the viability of privatizing all foster care services in Kentucky's child welfare system. The Study Group reviewed the literature on large-scale privatization of child welfare services, learned from two expert panels of public and private child welfare agency leaders with lived experience with large scale privatization efforts, and applied these findings to the child welfare context in the Commonwealth of Kentucky. Their findings, recommendations, and observations are separated into three main components:

- Summary of key lessons learned from other state's large-scale privatization efforts
- Recommendations regarding expanded privatization of foster care services in Kentucky at the present time
- Observations and vision for Kentucky's broader child welfare transformation

## ***Summary of Key Lessons Learned from Peer Jurisdictions***

1. Clearly articulate desired outcomes for the privatization effort from the onset.
2. Develop shared ownership and commitment within the public and private sector.
3. Assess readiness in the provider community prior to implementation.
4. Conduct a cost study prior to implementation.
5. Provide resources for start-up and implementation.
6. Ensure the public child welfare agency has the capacity to effectively monitor contracts and engage in robust continuous quality improvement (CQI) activities.
7. Build integrated and compatible data systems.
8. Clarify public and private workforce responsibilities.
9. Consider legal implications and liability issues for the provider community.

10. Apply a phased-in approach to implementation.
11. Acknowledge the difficulty of transition to a fully privatized child welfare system.

### ***Interconnected Recommendations for Expanded Privatization***

1. Expanding privatization to all foster care services in Kentucky is not feasible at this time given the capacities that need to be built within both the public and private sector in order for this approach to be successful.
2. Any future efforts to expand privatization in Kentucky should include a readiness assessment, a cost study, and a legal review prior to implementation.
3. Significant investments of resources are needed within the child welfare system to effectively prepare it for large-scale privatization.
4. Should the necessary capacities be built within the public child welfare agency and the private sector, the Study Group suggests considering a modular approach to expanded privatization, a phased-in implementation plan, and preliminary consideration of specific dimensions of the child welfare continuum of care, including preventive services, recruitment and certification, and independent living services.

The HB 1 Study Group represented an invaluable opportunity to bring together public and private agency child welfare leaders and key stakeholders committed to creating and sustaining a 21<sup>st</sup> century child welfare system, designed not only to improve outcomes for the Commonwealth's most vulnerable children and families but to create an environment where they can grow and thrive. While legislatively charged specifically to explore performance-based contracting and expanded privatization as reform strategies, the Study Group leveraged its time together to envision and plan for child welfare transformation more broadly. The systems change strategies and principles detailed below reflect and build upon the numerous child welfare transformation strategies already underway in the Commonwealth, align with Kentucky's efforts to be an early adopter of the federal Family First Prevention Services Act legislation, and reflect the shared vision of the Study Group and other participating stakeholders.

### ***Shared Vision for Kentucky's Child Welfare Transformation***

- ❖ Reorient the child welfare system around prevention of child maltreatment and family preservation, leveraging foster care as an intervention of last resort.
- ❖ Building on successful programs like Sobriety Treatment and Recovery Teams (START) and K-STEP, expand the Kentucky service array so that it aligns with the identified needs of the child welfare population across the continuum of care.

- ❖ Understand the irreparable trauma of removal, honor the difficult journey that biological parents face on the road to reunification, and build a culture that normalizes help, supports families, and promotes well-being.
- ❖ Better engage birth families and youth in all aspects of child welfare service delivery, and increase the presence and visibility of family and youth voice in system-level strategic planning and decision-making.
- ❖ Execute a fundamental, philosophical shift in how the child welfare system identifies, engages, values, and supports relative and kin caregivers.
- ❖ Ensure the highest quality of child welfare practice across the continuum of care.
- ❖ Create an aligned infrastructure and integrated training system for public and private child welfare workers.
- ❖ Build, reinforce, and sustain a culture of safety across the child welfare system that promotes learning; values the workforce; avoids blame, fault-finding and scapegoating; and invests efforts to understand what went wrong when bad outcomes are experienced, to identify contributing factors, and to implement strategies and supports to ensure the same outcome does not happen again.
- ❖ Strengthen working relationships and data sharing capacity not only between the public child welfare agency and private providers, but also between public agencies serving many of the same families (e.g. Medicaid, workforce development, substance abuse treatment, behavioral health, education); identify strategies to braid funding, foster innovation, and improve performance on shared outcomes.
- ❖ Ensure a sustainable leadership structure that can transcend changes in political administrations and other cyclical factors to promote long-term success of the child welfare transformation.

The HB 1 Study Group created an environment for stakeholders and advocates to come together to assess the feasibility of expanding privatization of foster care services and strategize more broadly about needed child welfare system reform in Kentucky. Building upon current transformation strategies and efforts to implement the federal Family First Prevention Services Act, the Study Group was able to create an initial blueprint to guide its systems change efforts. The Study Group deeply appreciates the review and consideration by the Kentucky Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee of these recommendations related to child welfare privatization and the Kentucky child welfare system transformation more broadly.

# Background

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Beginning in 2013, Kentucky has experienced a dramatic increase in the number of children and youth entering out-of-home care. For much of State Fiscal Year (SFY) 2019, the number of children and youth in foster care hovered just below 10,000, representing the highest foster care caseloads ever sustained within the Kentucky child welfare system. To respond to this phenomenon, the Kentucky Department for Community Based Services (DCBS) launched a comprehensive child welfare transformation designed to safely reduce the number of children entering foster care, increase timely exits to appropriate permanency, and reduce the caseloads of the child welfare workforce.

Correspondingly, the Kentucky legislature demonstrated its commitment to child welfare reform through the passage of House Bill 1 (HB 1), an influential piece of legislation designed to improve Kentucky's child welfare system and the outcomes for the Commonwealth's most vulnerable children and families. Key elements of HB 1 include the establishment of a statewide Child Welfare Oversight & Advisory Committee, increased attention to child welfare caseloads, improved quality and access to family preservation services for vulnerable families, increased supports for kin caregivers, and streamlined processes for prospective foster and adoptive parents (Moody, 2018). In addition, HB 1 requires that DCBS begin to implement performance-based contracting with licensed child-placing and child-caring agencies in 2019 and explore the expansion of privatization of child welfare services.

To guide Kentucky's reform efforts related to performance-based contracting and privatization, HB 1 mandated the establishment of a Study Group comprised of key public and private child welfare leaders and stakeholders.<sup>1</sup> In late Summer/Fall of 2018, the Study Group, facilitated by representatives from Chapin Hall at the University of Chicago, critically reviewed the literature and best practices associated with performance based-contracting. The Study Group also re-examined the research and findings associated with Kentucky's previous efforts to explore performance-based contracting and learned from peer-jurisdictions about their experiences with this contracting mechanism. In accordance with the timelines included in the legislation, the Study Group submitted a comprehensive set of recommendations to the legislature on November 30, 2018 (See Appendix A for the full report).

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<sup>1</sup> See Acknowledgements for a complete list of HB 1 Study Group members and contributing stakeholders.

This same Study Group was also charged with exploring the feasibility of privatizing all foster care services in the Commonwealth, including an analysis of potential financial implications. Like most child welfare systems nationally, Kentucky has already privatized a substantial amount of its foster care services. For example, over half of children and youth in out-of-home care in Kentucky are placed in private therapeutic foster homes or residential facilities (Statewide Foster Care FACTS, 2018). However, HB 1 provided the opportunity for the Study Group and other interested stakeholders to examine the array of private agency contracts in place and assess whether expanded privatization represented the right strategy to improve child welfare outcomes in Kentucky. Child and family outcomes of particular interest to the legislature included the timeliness and likelihood of permanency, including reunification, adoption, and guardianship; increased placement stability; and reduced re-entry into out-of-home-care.

The Study Group met regularly between January and June 2019 to examine the viability of privatizing all foster care services in Kentucky's child welfare system. The Study Group also considered the extent to which expanded privatization would be the right strategy for child welfare services focused on prevention and family preservation in order to promote child safety and stabilize families before foster care becomes necessary. Once again facilitated by representatives from Chapin Hall at the University of Chicago, the Study Group reviewed the literature on privatization of child welfare services, learned from two expert panels of public and private child welfare agency leaders with lived experience with large scale privatization efforts, and applied these findings to the child welfare context in the Commonwealth of Kentucky. This report represents the Study Group's observations and recommendations related to expanded privatization of child welfare services in Kentucky at the present time.

The development of these reports was a deeply collaborative effort involving a strategic array of child welfare stakeholders. The reports include the foster parent and youth perspective together with contributions from private providers, state agency leadership and staff, court representatives, and advocates. Taken together as an integrated whole, the two reports detailing recommendations related to both performance-based contracting in child welfare and expanded privatization of foster care services represent the Study Group's shared ideas and best thinking about the child welfare reform needed in the Commonwealth of Kentucky.

# Synthesis of the Literature and Expert Panels

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To critically explore the knowledge base around privatization of child welfare services, including the design and implementation of privatization models, a review of relevant literature was conducted. A summary of select peer-reviewed articles, state reports, and other publications was prepared and shared with the HB 1 study group for their review (See Appendix B). Complementing the literature review, two panel sessions with privatization experts were held in March 2019. During these panel sessions, experts with lived experience with child welfare privatization shared their jurisdictional experiences and lessons learned, also engaging in question-and-answer sessions with meeting participants. The summary below reflects information gleaned from both the literature review and the expert panels.

## Defining Privatization

Despite its relatively widespread practice, there is no singular or agreed-upon definition of 'privatization' in child welfare (Collins-Camargo et al., 2007). The term can be defined narrowly or broadly (e.g. all contracted services), but privatization essentially represents the provision of publicly funded services and activities by non-government entities (Planning & Learning Technologies & University of Kentucky, 2006). Said differently, privatization signifies the transfer of a service from a public agency to private ownership and control. Within the child welfare literature, a common application of privatization involves the specific decision to contract out the case management function to private agencies, resulting in private providers being charged with making the day-to-day decisions regarding a child and family's child welfare case. To date, DCBS has not chosen to transfer case management responsibility for the family to providers within the private sector.

## Why Privatize?

Child welfare agencies pursue privatization for myriad reasons, including a desire to improve outcomes for children and families that are consistent with federal and state mandates and the federal Child and Family Services Review process (Freundlich & McCullough, 2012). Additional common justifications are the beliefs that transferring

responsibility to the private sector spurs innovation and can create a more flexible and expanded array of services than would be possible within the public sector, and that privatization encourages competition, creating a more efficient use of taxpayer resources (Freundlich & McCullough, 2012; Myslewicz, 2010). Experts reported additional impetuses for their jurisdictions' move toward privatization, including, but not limited to, public agency staffing challenges leading to the decision to privatize case management; as a response to child fatalities and a resulting commitment to increase accountability; a desire to improve child welfare practice for specific, high-needs populations; and the notion that this shift in responsibility would result in cost-savings for the child welfare agency.

### Privatization Models and Payment Structures

There are a number of ways that States have approached privatization. It is common for child welfare agencies, including Kentucky, to privatize a substantial portion of their child welfare services, including family preservations services, child placement, support to resource families, and clinical service provision. However, in the majority of states, also including Kentucky, the public child welfare agency retains case management responsibility and oversight of day-to-day activities of the child welfare case (Flaherty, Collins-Camargo, & Lee, 2008). These day-to-day activities include case transfer activities; assessment of child and family need; service referral, linkage, and monitoring; determining level of placement; setting visitation schedules; and presenting on the case in court (Lee & Samples, 2008). Only two states (e.g., Florida, Kansas) have pursued system-wide privatization, including contracting out all case management services. A few others (e.g., Illinois, New York) have implemented large-scale privatization efforts, contracting out large swaths of case management responsibility, and few more have privatized on a smaller scale, for example in specific geographic regions or with regards to discrete child welfare populations (Myslewicz, 2010).

States have established a few different privatization models within their child welfare systems. One example is the lead agency model, most notably employed in Florida. In a lead agency model, the public agency contracts with one or a limited number of agencies with a designated region to provide or purchase all specified services for the identified target population(s) (McCullough & Lee, 2007). The goal is to create a single point of accountability, though there are variations in how this model is implemented. In some instances, the lead agency provides most, if not all, of the services directly. Other lead agencies procure the majority of services from community-based agencies but retain case management responsibility internally. Still others sub-contract all services to

partner agencies and focus their efforts on the development and management of a provider network and overall child welfare system oversight.

Advantages of the lead agency model include reductions in costs related to contract administration and monitoring; the establishment of economies of scale in service provision, as infrastructure costs can be spread across more families; higher levels of service integration and coordination; and reductions in variability of performance given the smaller number of providers (McCullough & Lee, 2007). The primary disadvantages to this model are an over-reliance on a single provider and significant problems for the state agency if the provider fails to perform in alignment with established standards.

The other main approach to privatization is the multiple provider model, where the state child welfare agency contracts with a variety of private agencies that provide different types of services (McCullough & Lee, 2007). The positive aspects of this approach are that providers can specialize by service and smaller, community-based providers are more likely to survive. In addition, more contracts allow for increased competition which can lead to higher quality and/or less costly services. Potential disadvantages to this model include higher administrative costs to the child welfare agency because there are more contracts to monitor. More contracts mean additional challenges associated with program monitoring, oversight, and technical assistance provision to a larger number of providers. Lastly, a broader network of providers means there is an increased likelihood in the variability of performance, and children and families across the state may receive inconsistent service provision.

Just as there are different privatization models, there are also different payment structures, not necessarily mutually exclusive, that each carry their own risks and rewards (Flaherty et al., 2008; McCullough & Lee, 2007). The most prevalent payment structure is the case rate, where contracted agencies are paid a predetermined amount for each child or family referred to them (McCullough & Lee, 2007). Kentucky applies case-specific rates within its payment structure with contracted agencies, together with per diem payments provided to maintain foster care placements. Variations to this model are the layered case rate, where the actual case rates differ by case type based on the perceived level of need for each type, or the capitated rate, in which providers receive a flat fee and a specified number of cases from the child welfare agency (Flaherty et al., 2008). Within this approach, the child welfare agency bears the risk associated with an increased number of referrals, whereas providers bear the risk associated with the cost of services for each referral. On the contrary, if providers can achieve efficiencies in their

service provision within the case rate model, they have the possibility of achieving cost savings and increasing their earnings.

Another option is the global budget transfer, a payment arrangement where the lead agency is given a predetermined percentage of the child welfare agency's operating budget (McCullough & Lee, 2007). Within this rather uncommon payment structure, the lead agency is required to provide all child welfare services, in whatever amount and intensity that is needed, regardless of how many children and families within their catchment area may require services. In this arrangement, the contractor bears all the risk associated with serving children and families within the budgeted amount. Similar to the case rate structure, however, the private provider stands to gain if they are able to create efficiencies within their service delivery model.

The last payment structure to be discussed is performance-based contracting (PBC). PBC is designed to improve child and family outcomes by integrating performance standards into contracts with providers and linking financial incentives or disincentives with providers' performance on identified targets (U.S. Department of Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2008; Wulczyn, Alpert, Orlebeke, & Haight, 2014). Elements of PBC can be applied within all types of payment structures, and per HB 1, PBC reflects the approach that DCBS will be applying in its contracts with provider agencies going forward. Within performance-based contracts, some or all of providers' payments are tied to their ability to achieve the goals and objectives outlined in their contracts. Depending on provider performance, payments are adjusted and incentives (i.e. bonuses) or disincentives (i.e. penalties) can be applied. PBC can be integrated into contracts with lead agencies or single providers. Private providers bear a certain amount of risk with PBC because some of their ability to achieve the intended outcomes of their services may fall outside of their direct control (McCullough & Lee, 2007). Public agencies bear the risk for costs associated with an increase in referrals and/or the incentive costs associated with provider agencies improving their performance and increasing achievement of intended outcomes.

## Evaluating Efforts to Privatize Child Welfare Services

Rigorously evaluating privatization efforts in child welfare is challenging due to difficulties with establishing meaningful control or comparison groups in these settings and/or the lack of available historical administrative data. Without comparison groups, it is difficult to ascertain whether the outcomes observed in jurisdictions are due to the shift toward privatization, or whether they are due to other variables within the

jurisdiction's child welfare context. Acknowledging these important limitations, there are some findings available that share information about trends in child welfare outcomes following the implementation of large-scale, transformative privatization strategies.

Evaluation findings in Florida yielded mixed results about the impact of privatization (Myslewicz, 2010). Agencies demonstrating strong performance in achieving timely permanency were also more likely to demonstrate higher rates of re-entry. Additionally, adoption rates increased, caseloads and worker caseloads decreased, and findings showed variability in performance related to monthly caseworker visits with children and youth. Kansas' evaluation findings should be interpreted cautiously due to the lack of baseline data available for the period of time preceding their shift to a privatized model. Performance trends post-privatization showed a decrease in the number of children placed in residential care, an increase in the number of adoptions, and a decrease in children's average length of stay between 1997 and 2009 (Myslewicz, 2010). Post-privatization, Rhode Island observed a nearly 20% reduction in the number of children in residential care, a reduced number of children entering care due to preventive services, and an expanded array of family-based services and supports (Casey Family Programs, 2017). Nebraska, on the other hand, experienced substantial reductions in the quality and availability of services available for children and families as well as significant increases in the cost of child welfare services (Hubel, Schreier, Hansen, & Wilcox, B., 2013).

Despite the limitations associated with evaluating the outcomes of child welfare agencies' privatization efforts, several studies have yielded robust lessons learned from states' implementation experiences.

## Summary of Key Lessons Learned

The findings in privatization studies mirrored many of the comments provided by the experts during the panel discussions with the HB 1 Study Group. Following is a summary of key lessons learned from the literature and the expert panels about implementing large-scale privatization strategies in child welfare systems. See Appendix C for related information on key themes and considerations from the expert panels.

### *1. Clearly articulate desired outcomes for the privatization effort from the onset.*

Any privatization effort should be clearly tied to a set of articulated outcomes that the child welfare system intends to achieve and a defined problem it wants to solve (Hubel et al., 2013; Collins-Camargo et al., 2011). Ideally, this problem would be defined and these outcomes determined as part of shared visioning and planning process inclusive

of key stakeholders (Freundlich & McCullough, 2012; Myslewicz, 2010). Developing a clear theory of change as part of this planning process that illustrates how privatizing services would address the identified issues in the current child welfare system is critical. Furthermore, clarifying the intended outcomes from the onset creates shared expectations between all partners and promotes accountability.

*2. Develop shared ownership and commitment within the public and private sector.*

Experts noted that community ownership and buy-in are instrumental to any privatization model (McCullough & Lee, 2007). Engaging the private sector and other critical stakeholders in the design of the solution to the identified problem promotes shared ownership and commitment to the change process. This type of collaborative process builds trust which is essential for meaningful working relationships, transparency, and open communication (Flaherty et al., 2008). In addition, experts recommended engaging private sector leaders and other key stakeholders in an ongoing manner to provide oversight and guidance within a privatized child welfare system. Illinois' Child Welfare Advisory Committee (CWAC) was highlighted as a successful model worthy of replication.

*3. Assess readiness of the provider community prior to implementation.*

Assessing the readiness of the provider community prior to privatization is a fundamental part of the planning process (Collins-Camargo et al., 2007; Flaherty et al., 2008). Experts shared concerns that providers tend to overestimate their capacity to assume new work and responsibilities. Assessing provider infrastructure, ability to take on case management activities, and otherwise implement the privatization initiative is critical before transferring new and additional responsibilities to the private sector.

*4. Conduct a cost study prior to implementation.*

Experts also recommended that jurisdictions conduct a cost study prior to implementation so that all impacted stakeholders understand what it will cost the child welfare system to stand up and sustain a transition to privatization. Cost studies can help build trust between public and private agency partners and can alleviate anxiety, particularly within the provider community, by providing information about the true cost of implementing the initiative and providing the required services to children and families.

*5. Provide resources for start-up and implementation.*

Studies showed and experts reaffirmed that privatization is not a budget neutral process (Hubel et al., 2013; Myslewicz, 2010). This is an especially important finding given that many privatization initiatives are pursued because of the belief among decision-makers that this approach will be more cost efficient than retaining these responsibilities within the public sector. Additional resources for start-up and implementation are needed, and cost-savings may not be realized until much later, if at all (Freundlich & McCullough, 2012). Investments are often needed in both the public and private sector to ensure that all parties are able to function effectively in a privatized system and that the community can sustain a continuum of care (Schwab et al., 2014).

*6. Ensure the public child welfare agency has the capacity to effectively monitor contracts and engage in robust CQI activities.*

In addition to needing to ensure that providers have the capacity to assume case management responsibility and deliver quality services, the public child welfare agency must have the capacity to effectively monitor contracts, provide technical assistance, and promote improvements in quality casework practice and child and family outcomes (Flaherty et al., 2008). This means that the child welfare agency must possess a strong, well-functioning contract division with a trained staff capable of performing these essential duties. In parallel, the child welfare agency should also have a sound and robust continuous quality improvement (CQI) system in place that integrates private agencies within CQI activities, uses common language and knowledge around contract monitoring and performance improvement, and has the ability to collect and access relevant data by both public and private agency partners.

*7. Build integrated and compatible data systems.*

Essential data collection and analysis within a privatized child welfare system also requires the development and maintenance of a compatible and integrated data system to which provider agencies have access (Collins-Camargo et al., 2011; Lee & Samples, 2008; Flaherty et al., 2008). In addition to ensuring that provider agencies have the capacity to enter critical administrative data elements on the children and families they are serving within the state data system, the private sector also needs the ability to access their own data, run reports, and otherwise have the capacity to generate their own evidence to inform their internal performance monitoring and improvement efforts. This data infrastructure is a necessary part of creating an environment of shared accountability and data-driven decision-making within a privatized child welfare system.

*8. Clarify public and private workforce responsibilities.*

Ensuring precise role delineation between the public and private agency workforce emerged as a consistent and critical theme in the literature (Flaherty et al., 2008; Hubel et al., 2013; Schwab et al., 2014; Lee & Samples, 2008) and in the expert panel discussions. Privatization fundamentally involves transitioning a set of responsibilities from the public sector to the private sector. Avoiding confusion, duplication of effort, or gaps in service by clearly outlining and communicating roles and job responsibilities between public and private entities from the onset is essential. These responsibilities and expectations should be clearly documented and disseminated to the public and private agency workforce and reinforced in training, coaching, supervision, and contract oversight (Collins-Camargo et al., 2007).

*9. Consider legal implications and liability issues for the provider community.*

Experts encouraged the HB 1 Study Group to thoughtfully consider the legal implications associated with a more expansive move toward privatization. Specifically, stakeholders were encouraged to acknowledge the risk that contracted agencies would be absorbing by assuming greater responsibility, and the liability and indemnification considerations associated with that transition. The high cost of securing the necessary insurance policies within contracted agencies was cited as a specific challenge, and experts recommended the establishment of specific assurances in order to financially protect the provider community within a large scale privatization effort. Another consideration raised by the experts related to legal representation in court. Public agencies are often represented in court by agency counsel or a district or county attorney (American Bar Association, 2004). When the public agency transfers primary case management responsibility to private child welfare agencies, the extent to which private agencies receive legal representation can become murky and uncertain. Devising an approach or strategy for legal representation within expanded privatization efforts is essential.

*10. Apply a phased in approach to implementation.*

A flexible, phased in-approach to implementation better positions jurisdictions for success (Flaherty et al., 2008; Freundlich & McCullough, 2012). Time is needed to develop thoughtful, detailed implementation plans that can be clearly communicated to all stakeholders impacted by the change. A gradual approach would also build time into the process to address areas identified during a readiness assessment as needing additional capacity. Moving too quickly increases the likelihood for failure or other unintended outcomes.

*11. Acknowledge the difficulty of transition to a fully privatized child welfare system.*

The expert panelists consistently shared the message that a transition to privatization is very difficult. This theme was corroborated within the literature as well, along with the notion that a reform effort of this magnitude requires the commitment of public and private agency child welfare leadership alike (Myslewicz, 2010). Moreover, a change like this takes considerable time, and strategies need to be put in place to ensure consistency in leadership through changes in political administration. Stakeholders also reinforced the message that privatization is not a 'silver-bullet' for addressing areas of poor child welfare system functioning, and that the private sector is limited by the same type of challenges, barriers, and capacity issues the public child welfare agency faces in providing quality child welfare services. Resolving these issues involves not only ensuring a sufficient, well-trained, and committed workforce, but building collaborations with community partners to ensure an adequate service array that aligns with the needs of the children and families being served.

All in all, the literature review and the expert panels yield rich and consistent information about what it takes to transition to a privatized child welfare system and the lessons learned throughout the process. This information was invaluable in informing the Study Group's recommendations to the legislature about the feasibility of privatizing all foster care services in Kentucky.

# Recommendations

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Given the robust information gleaned through its review of the literature, conversations with privatization experts, and the application of the lessons learned in other jurisdictions to the Kentucky context, the Study Group makes the following overarching recommendations to the legislature of the Commonwealth regarding expanded privatization of child welfare services. Taken together as a whole, these four interconnected recommendations illustrate the path forward suggested by the Study Group for any future decision-making related to expanded privatization in Kentucky's child welfare system.

- 1. Expanding privatization to all foster care services in Kentucky is not feasible at this time given the capacities that need to be built within both the public and private sector in order for this approach to be successful.*

The HB 1 Study Group does not recommend expanding privatization to all foster care services in Kentucky at this time. The Study Group determined that this approach would be presently infeasible given the capacity that needs to be built in both the public and private sectors.

First, the HB 1 Study Group reached consensus that the current network of private providers of foster care services does not have the available capacity to assume case management responsibility for the day-to-day operations of child welfare cases. While strengths in both public and private agency child welfare practice were identified over the course of the HB 1 Study Group's deliberations, there were several case management responsibilities identified as most effectively performed by the public child welfare agency. One example included preparing for child welfare hearings and representing cases in court. Another example highlighted was the strong public agency casework practice in working with relative and kin caregivers. Specific examples of strong private agency casework practice included recruitment, support and retention of non-relative caregivers and effective child placement services. The current division of labor between the public agency and the private sector was recognized as presently appropriate given the strengths and limitations of involved stakeholders, and there was agreement that transferring full case management responsibility to the private sector would not be the right strategy at this time for solving the challenges underlying Kentucky's broader child welfare transformation effort.

Another recurring theme was the need to increase the Kentucky child welfare system's capacity to serve all children and youth in its care. Challenges were identified with the child welfare system's capacity to identify and sustain appropriate and stable placements for children and youth with high needs and connect them with appropriate services. Stakeholders expressed a desire and commitment to create a placement array that ensured children and youth remained in residential care only as long as clinically indicated, and that placements were never made in residential treatment facilities for the sole reason that a more appropriate placement was not available. Focusing on creating a child welfare system that has the capacity to serve all children was identified as a more urgent priority than transitioning case management responsibility to the private sector.

Relatedly, HB 1 Study Group members and stakeholders recognized the need to expand the evidence-based service array so that it aligns with the identified needs and child maltreatment risk factors present within the families being served. This also includes expanding access to services in traditionally underserved regions around the State. Dovetailing with Kentucky's efforts to prepare for and implement the provisions of the federal Family First Prevention Services Act (Family First), expanding the evidence-based services array remains a primary strategy within the broader child welfare transformation.

Study Group members jointly recognized a need for a common infrastructure to be developed prior to expanding privatization beyond the current division of labor in Kentucky. This infrastructure would likely include aligning policies, practices, training opportunities and available supports to the workforce and resource families so they were cohesive, integrated and equitable between public and private agencies. Equally important is the need to develop integrated and compatible data systems within public and private agencies. Strategies to avoid duplication of data entry and enhance the capability of private agencies to access administrative data on the families they are serving are needed. An assessment of the current infrastructure and differences between the public and private sector led to consensus that this was an area needing enhancement prior to a move toward expanded privatization.

Within the public child welfare agency, the need to build contract monitoring and support capacity was identified, together with the prerequisite development of a robust CQI system that integrates the private sector. Careful discussion and consideration yielded consensus that for privatization to be successful, DCBS would need enhanced ability to monitor contracts toward a set of desired outcomes, and to design a capacity building and technical assistance approach that would support private providers in their efforts to enhance their performance in areas identified as needing improvement. These

comments paralleled and reinforced similar recommendations contained in the Study Group's report to the legislature on performance-based contracting.

In addition to a well-functioning contracts monitoring and support unit, a parallel need was identified to design and implement a robust CQI system that monitors performance on key outcomes using valid quantitative and qualitative data, identifies strategies to address areas needing improvement, implements these strategies, and monitors their effectiveness. These CQI activities would need to be integrated and aligned with contract monitoring activities within a privatized child welfare system.

*2. Any future efforts to expand privatization in Kentucky should include a readiness assessment, a cost study, and a legal review prior to implementation.*

Findings from the literature review and the expert panels consistently stressed the importance of conducting a readiness assessment, a cost study, and a legal review in advance of any transition to privatization of child welfare services. The Study Group recommends a similar approach be applied in Kentucky to systematically assess the readiness of the Kentucky child welfare system to become privatized and to determine the true cost of making such a transition.

The Study Group's deliberations in its exploration of both performance-based contracting and privatization facilitated the identification of key areas requiring additional capacity within Kentucky's child welfare system in both the public and private sector. A formal readiness assessment would further this initial work and provide the data needed to design and implement a thoughtful implementation plan. Similarly, a rigorous cost study would provide invaluable information about what resources would be needed for a privatized child welfare system to be successful and sustainable, hopefully avoiding the discovery of hidden costs with the potential to result in poor quality service provision and a failed reform effort. Lastly, a legal review would bring to light the liability and indemnification issues that the provider community would be facing and help inform the development of any assurances or protections that could be put in place prior to any large-scale transition to expanded privatization. A legal review would also clarify dimensions of legal representation should roles and responsibilities shift from the public to the private sector.

- 3. Significant investments of resources are needed within the child welfare system to effectively prepare it for large-scale privatization.*

Building the identified capacities within the public and private sector requires a significant investment of resources. The Study Group recommends that the prerequisite resources be made available to the child welfare system by the legislature to address areas currently identified as needing improvement, as well as any additional areas that would be identified through a privatization readiness assessment.

Findings within the literature and observations by the privatization experts were clear that privatizing child welfare services is not more cost effective than retaining case management and other activities as a public agency responsibility. Furthermore, lessons learned in other jurisdictions informed the Study Group about where investments were likely to be needed to create an environment where private child welfare agencies could be successful when assuming new and different responsibilities and the public child welfare agency could effectively monitor and support its private agency partners. Should Kentucky continue to explore expanded privatization, the Study Group recommends that resources be made available to build necessary capacity within public and private child welfare agencies to successfully transition to a privatized child welfare system.

- 4. Should the necessary capacities be built within the public child welfare agency and the private sector, the Study Group suggests considering a modular approach to expanded privatization, a phased-in implementation plan, and preliminary consideration of specific dimensions of the child welfare continuum of care, including preventive services, recruitment and certification, and independent living services.*

The Study Group's analysis included a careful review of available privatization models and the pros and cons of each. The Study Group reached a unanimous conclusion that the lead agency model is not the right fit for Kentucky's child welfare system, if/when a decision would be made to expand privatization. Specific justifications included the lack of competition promoted by the lead agency model, and concerns that smaller community-based organizations would likely struggle to survive within that paradigm.

Instead, the Study Group explored a modular approach to privatization and agreed that this model might work well within the Kentucky context. The proposed approach included five distinct modules: prevention and safety services; recruitment and certification; placement and case management; adoption and independent living; and post permanency support. Each Permanency and Protection region would partner with the state child welfare agency to determine which modules it wanted to privatize and

when, and Requests for Proposals would be developed and issued accordingly. The Study Group noted that it might make sense in the current environment for privatization to be expanded sooner in the areas of prevention and safety services, recruitment and certification, and independent living. Multiple providers could be contracted to provide any or all services within each module, and all providers would agree to the same contract terms, including rates for services and an incentive structure.

The Study Group also explored a preliminary performance and incentive structure to apply within this modular approach. Within the initial structure under consideration, all providers would receive the same case rates for the first year. At the end of the first year, performance on standard child welfare indicators would be assessed among contracted providers. Moving into the second year of service, contracted providers could be broken into tiers, with the highest performing tier receiving preferred case rates and preferred priority for placement; middle-tier providers receiving standard case rates and placement priority; and lower-tier providers receiving reduced rates and lower placement priority. Contractor performance would be assessed on an annual basis and a provider agency's ranking could change year over year. Additional consideration is needed to iterate and refine this performance and incentive structure, as well as determine what kind of supports would be available to lower-performers to strengthen their capacity. However, the Study Group did reach consensus that an approach like this would be worth considering in future efforts to expand privatization.

# Transforming Kentucky's Child Welfare System

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The HB 1 Study Group represented an invaluable opportunity to bring together public and private agency child welfare leaders and key stakeholders committed to creating and sustaining a 21<sup>st</sup> century child welfare system, designed not only to improve outcomes for the Commonwealth's most vulnerable children and families but to create an environment where they can grow and thrive. While legislatively charged specifically to explore performance-based contracting and expanded privatization as reform strategies, the Study Group leveraged its time together to envision and plan for child welfare transformation more broadly. This section of the report details the Study Group's shared vision for the future of child welfare in Kentucky and stakeholders' commitment to collaborate toward its actualization. The systems change strategies and principles detailed below reflect and build upon the numerous child welfare transformation strategies already underway in the Commonwealth, and align with Kentucky's efforts to be an early adopter of the federal Family First legislation.

First and foremost, the HB 1 Study Group and participating stakeholders are committed to building a child welfare system that is reoriented around preventive services and uses foster care only as an intervention of last resort. In addition to intensifying communication efforts to ensure that stakeholders and decision-makers are fully aware of the irreparable trauma inflicted upon a family by removing a child from his/her home, the Study Group expressed equal desire to invert child welfare system expenditures so that the majority of funding is directed toward services to preserve families and prevent removal. For example, in State Fiscal Year 2019, DCBS spent approximately **\$409,947,786** on out of home care costs relative to its **\$14,707,255** investment in preventive services designed to mitigate risk factors, promote child safety, and avoid the need for foster care (Sammons, 2019). Yet, Kentucky's outcome data show consistently positive outcomes for families that receive family preservation services. For example, of the families that completed intensive family preservation services in 2017, 93 percent of the children in those families remained safely in their homes (Kentucky Department for Community Based Services, 2018).

Child welfare leaders and advocates participating in the HB 1 Study Group want to influence this funding ratio and help make more of these critical resources available on

the front end of the child welfare continuum, before a family destabilizes so greatly that foster care becomes the only available option. Similarly, stakeholders demonstrated a desire to increase the family preservation resources and supports available to families post-permanency (i.e. reunification, guardianship, adoption) to preserve those placements and prevent re-entry into foster care.

In parallel, the Study Group stressed the importance of expanding the Kentucky service array so that it aligns with the identified needs of the child welfare population across the continuum of care. In addition to broadening and sustaining a public safety net that would address concrete concerns and allow biological parents to successfully provide for their children, this would also involve investing in provider capacity to implement and sustain more evidence-based programs. This could include the expansion and scale-up of interventions implemented and tested under the title IV-E waiver like Sobriety Treatment and Recovery Teams (START) and Kentucky Strengthening Ties and Empowering Parents (K-STEP), two programs already demonstrated as effective and the right fit for Kentucky families experiencing substance use disorders. Specifically, evaluation findings demonstrate that START-served children were half as likely to be placed in foster care as their counterparts in matched comparison groups; in addition, for every \$1 invested in START, findings show \$1.07 of foster care savings (Huebner, Willauer, & Posze, 2012).

Broadening the array and availability of evidence-based programs in communities, especially in underserved geographic areas, would increase families' early access to effective services while promoting child safety and family stability. Ensuring access to appropriate, effective services would also foster the achievement of timely permanency in instances where a removal is necessary. Investments in an enhanced service array would also well-position Kentucky to take full advantage of new federal funds made available for evidence-based preventive services under Family First.

In addition to expanding the array of clinical services within the community, the Study Group also pledged to develop and execute a transparent strategy to cultivate a network of caregivers (e.g. foster parents, adoptive parents, relative and fictive kin caregivers) committed to providing a safe, loving, and temporary home and promoting normalcy for children and youth who need to be placed in foster care. Aligned with the Family First legislation, this network would have expanded capacity to meet the identified needs of all children and youth in the foster care system, so that Kentucky would never again have to place a child in a residential facility or group care, or leave a child in that level of placement one minute longer than absolutely necessary, solely because a more appropriate placement type was not available. Stakeholders identified

the need to engage foster caregivers around their primary purpose to provide a temporary home for children and youth in need, and to recruit caregivers committed to walking alongside and supporting birth families as they address issues preventing them from being able to safely care for their children. Moreover, stakeholders recognized that the Kentucky child welfare system has the capacity to do a better job of recognizing caregivers as valued contributors, and should increase the availability of supports to them to ensure they can continue to provide the highest quality care to the children placed in their homes.

Stakeholders also professed the importance of honoring the difficult journey biological parents face on the road to reunification. Over the life of their case, families often are required to address areas of concern that did not contribute to the initial removal, and there is often an expectation that families overcome a lifetime of challenges within artificially short service delivery periods. Study Group members urged a shift away from a culture and climate of compliance with service plans, towards one that normalizes help and supports parents along their journey.

Moreover, stakeholders recognized the importance of better engaging biological families more broadly in all aspects of child welfare service delivery. In addition to the identified need to improve engagement of biological families, including children and youth, in decisions impacting their case, the Study Group also highlighted the need to increase the presence and visibility of youth and family voice in system-level strategic planning and decision-making.

The Study Group acknowledged that a fundamental, philosophical shift is needed in how the child welfare system identifies, engages, and supports relative and kin caregivers. The child welfare system as a whole needs to increase the value that it places on kin caregivers as worthwhile supports to biological parents and children, increasing outreach and engagement with these critical family members. This strategy also aligns well with Family First and its focus on leveraging kin caregivers as safe and loving resources before entry into foster care becomes necessary.

Ensuring the highest quality of child welfare practice across the continuum of care was noted as priority among the Study Group and participating stakeholders. The group expressed the need to improve the quality and reliability of screening and assessment practice across the child welfare continuum so that Kentucky is effectively identifying risk factors and family strengths and needs from the onset, connecting families with the right services needed to build protective capacities and keep children safe. In addition, the Study Group expressed a commitment to ensuring a trauma screening for every

child, and recognized the utility of implementing a functional assessment with families receiving family preservation services to improve the quality and appropriateness of service referrals and linkages early in families' engagement with the child welfare system. This commitment to promote quality casework practice dovetails with existing DCBS efforts to lower caseloads across the child welfare continuum. Ensuring manageable caseloads and right-sized staffing approaches are essential for delivering the highest quality services to children and families.

Accompanying the shared commitment to improve practice and lower caseloads was support for an integrated training system for both public and private agency child welfare workers. Despite public and private agency workers currently maintaining different roles and responsibilities within the child welfare system, stakeholders noted the benefit of creating shared training opportunities that would create a workforce with the overall skills and competencies to work together effectively, service families, and execute the child welfare system transformation.

Consistently reinforced by all stakeholders in the Study Group's discussion is the importance and value of DCBS' current strategy to implement a culture of safety across its child welfare system, inclusive of both public and private providers. As the public and private sector works together along with key partners to transform the existing child welfare system, creating an environment that promotes learning rather than fault-finding and blame was universally identified as essential. Nowhere is this more important than in relationship to the decision whether or not to remove a child. Despite the hard work and unwavering commitment of the child welfare workforce, sometimes tragedies and unintended consequences happen. Rather than address these unfortunate situations by identifying a scapegoat, a more effective strategy is to invest efforts toward understanding what went wrong, identifying contributing factors, and then implementing strategies to ensure the same outcome does not occur again. This approach fosters an environment where the child welfare workforce, providers, and foster parents feel safe, secure, and valued for their contributions. In addition, it creates an environment where the child welfare system, inclusive of but not limited to the public child welfare agency, can define itself rather than be defined by the media or critics. This philosophical shift toward institutionalizing a culture of safety is embraced by public and private agency leaders alike, advocates, and the youth and foster parents participating in the Study Group.

Furthermore, the Study Group stressed the importance of strengthening working relationships and data sharing capacity among public and private agencies serving many of the same families. Related efforts would include better engaging partners in

Medicaid, workforce development, substance abuse treatment, behavioral health, education, and all sister agencies to identify strategies for braiding funding, improving performance on shared outcomes, and fostering innovation.

Lastly, Study Group members emphasized the importance of ensuring a sustainable leadership structure to ensure the long-term success of the child welfare system transformation. Recognizing the reality of changes in political administrations, stakeholders advocated for the implementation of strategies that would provide continuity during times of change. Two specific examples included the establishment of a steering and advisory committee comprised of public and private child welfare agency leaders that would transcend political administrations. This same recommendation was put forward in the Study Group's recommendations on performance-based contracting.

The Three Branch Institute was another strategy put forward for consideration. The Three Branch Institute represents a technical assistance collaboration between the National Governors Association, the National Conference of State Legislatures, Casey Family Programs, the National Center for State Courts, and the National Council of Juvenile and Family Court judges, designed to foster effective and sustainable partnerships across the three branches of government to address critical child welfare issues (Cawthorne, 2016). Recognizing the need to strengthen collaborative relationships between the public child welfare agency, court partners, and the legislature, the Study Group suggested that the Three Branch Institute might be a viable and effective approach for sustainable leadership within Kentucky's child welfare system.

Taken together, these ideas and commitments represent the Study Group's shared vision for the future of child welfare in Kentucky. Executing these priorities requires the dedication and contributions of both public and private agency partners, advocates, and other critical stakeholders charged with building a collaborative child welfare system that functions most effectively for the children and families it serves.

# Conclusion

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The Study Group appreciates the review and consideration by the Kentucky Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee of these recommendations related to child welfare privatization and the Kentucky child welfare system transformation more broadly.

The Study Group was grateful for the opportunity to work together and explore the feasibility of expanding privatization of foster care services. Building upon its initial analysis and recommendations related to performance-based contracting, these last six months provided the opportunity for the Study Group and participating stakeholders to deeply explore the available knowledge base around privatization of child welfare systems and apply that information to the Kentucky child welfare context. While the Study Group reached consensus that expanding privatization to all foster care services was not the recommended strategy at the current time, participating stakeholders gained substantive knowledge about what infrastructure and capacities need to be built in order for future privatization efforts be successful.

In addition, the HB 1 Study Group created an environment for stakeholders and advocates to come together and strategize more broadly about needed child welfare system reform in Kentucky. Building upon current transformation strategies and efforts to implement Family First, the Study Group was able to create an initial blueprint to guide its systems change efforts. The Study Group and its partners look forward to working together to actualize this vision going forward.

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# House Bill 1 Study Group: Performance-Based Contracting Recommendations

December 1, 2018

*Prepared by Chapin Hall at the University of Chicago*

This report is respectfully submitted to the Kentucky Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee pursuant to Kentucky Revised Statute (KRS) 199.665.

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# Summary of Recommendations

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Performance-based contracting is intended to improve child and family outcomes by integrating performance standards into contracts with private providers, and aligning financial incentives or disincentives with providers' performance on identified targets. It represents a promising fiscal strategy within Kentucky's child welfare transformation to increase the safety, permanency, and well-being of the Commonwealth's most vulnerable children and families.

Below is a summary of the recommendations developed by the House Bill 1 (HB 1) Study Group for the design and implementation of performance-based contracting in Kentucky's child welfare system. Information about each of the recommendations along with associated considerations are available within the full report.

## **Performance-Based Contracting Model**

1. Develop and implement a hybrid performance-based contracting model that includes both financial incentives for positive performance and disincentives for negative performance.
2. Apply a developmental approach to implementing performance-based contracting, including a hold harmless period for providers for at least the first year.
3. Apply performance-based contracting across the full continuum of child welfare services.
4. Develop a strategic implementation plan for performance-based contracting that includes clear timelines and an intentional communications plan.

## **Performance Monitoring and Continuous Quality Improvement**

5. Establishing performance measures and targets should be a transparent, collaborative process including public and private agency partners in the development process.
6. Performance standards and targets should take related outcomes into consideration.
7. Allow for flexibility and variation in the development of performance standards and targets.
8. Ensure risk adjustment models are communicated in plain language so that the intended audience can understand the steps taken to develop the models and their intended purpose.

9. Ensure that comprehensive data collection and good data quality are the foundation of all performance monitoring and continuous quality improvement (CQI) efforts.
10. Integrate contract performance monitoring within CHFS' overall CQI processes.
11. The provision of capacity-building and technical assistance services should be a fundamental component of the performance monitoring and improvement process.
12. Include a clear appeals process for providers concerned with the assessment of their performance and application of potential penalties.

### **Resources and Infrastructure**

13. Enhance administrative data system capacity and data sharing capability between CHFS and the provider community.
14. Provide resources to support the capacity building and technical assistance needed to design and implement performance-based contracting within CHFS and the provider community.
15. Create a performance-based contracting project manager position within CHFS for child welfare.
16. Ensure there are a sufficient number of staff within CHFS with the right sets of competencies to effectively design, procure, manage, and monitor contract performance and support performance improvement.
17. Revise and re-issue the 2015 Performance-Based Contracting Readiness Assessment with the provider community.
18. Develop system-wide training opportunities on performance-based contracting for public and private agency partners.

### **Public-Private Partnerships**

19. Establish a collaborative, third party, child welfare advisory committee charged with overseeing of the design and implementation of performance-based contracting in Kentucky child welfare services.
20. Pursue the development and implementation of a collaborative child welfare practice model.

# Introduction

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In recent years, Kentucky has experienced a substantial increase in the number of children experiencing child maltreatment and corresponding increase in the number of children entering out-of-home care (Child Welfare League of America, 2017). Currently there are more than 9,900 children and youth living in foster care in Kentucky, and the number continues to rise.

In 2018, the Kentucky legislature passed House Bill 1 (HB 1) in an effort to improve Kentucky's child welfare system and the outcomes for the Commonwealth's most vulnerable children and families. Key components of this landmark legislation include the establishment of a statewide Child Welfare Oversight & Advisory Committee, increased attention to child welfare caseloads, improved quality and access to family preservation services for vulnerable families, increased supports for kin caregivers, and streamlined processes for prospective foster and adoptive parents (Moody, 2018).

In addition, HB 1 established the requirement that the Cabinet for Health and Family Services (CHFS) begin performance-based contracting with licensed child-placing agencies and child-caring facilities that contract with the Department of Community Based Services (DCBS) by July 1, 2019. Performance-based contracting represents a promising fiscal intervention designed to improve child and family outcomes by integrating performance standards into contracts with providers and linking financial incentives or disincentives with providers' performance on identified targets (U.S. Department of Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2008; Wulczyn, Alpert, Orlebeke & Haight, 2014).

Specific outcomes of interest to the legislature include the increased likelihood and timeliness of achieving permanency through reunification, adoption, or guardianship; improved placement stability for children and foster care; and reduced re-entry into foster care. Relatedly, the CHFS' child welfare transformation efforts are focused on achieving three interconnected outcomes including safely reduced entries into foster care, improved timeliness to appropriate permanency, and reduced caseloads for the child welfare workforce.

To inform the Commonwealth's implementation of performance-based contracting in child welfare, HB 1 mandated that the Secretary of CHFS create a Study Group charged with making recommendations about the creation and implementation of performance-

based contracting and submitting these recommendations to the legislature by December 1, 2018.

Comprised of key public and private child welfare leaders, stakeholders and advocates, the HB 1 Study Group and its contributing participants met five times between September-November 2018 to review, discuss, and deliberate key components of performance-based contracting and their applicability within the context of the Kentucky child welfare system<sup>2</sup>. Facilitated by representatives from Chapin Hall at the University of Chicago, the Study Group reviewed Kentucky's performance on key child welfare outcomes, studied literature on performance-based contracting, and learned from peer jurisdictions' efforts to implement performance-based contracting within their child welfare systems.

As part of these efforts, the Study Group also reviewed the findings and recommendations of the Kentucky Child Welfare Performance and Accountability Partnership (CWPAP). CWPAP represented the Commonwealth's previous efforts to research and move towards performance-based contracting in its child welfare system. Operating between 2014 and 2017, CWPAP involved the contributions of a wide range of public and private child welfare stakeholders. While CWPAP was unable to realize its goals as intended, the Study Group was committed to ensuring that all of CWPAP's efforts and progress were carefully considered in the development of its recommendations.

HB 1 also included a provision requiring the same HB 1 Study Group to consider the feasibility and implementation of privatization of all foster care services in the Commonwealth and submit a report with its corresponding recommendations to the legislature by July 1, 2019. While Kentucky has already privatized a substantial proportion of its child welfare services, HB 1 presents an opportunity to critically evaluate the continuum of care and identify where there are additional opportunities to strategically deepen the privatization of services needed by the community. The Commonwealth's decisions related to privatization of child welfare services and performance-based contracting are substantially interconnected. Determining the roles and responsibilities of public and private child welfare agencies is integral to the development of performance-based contracts and the selection of performance measures. As such, the Study Group was limited in its ability to recommend specific

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<sup>2</sup> See *Acknowledgements for a full list of HB 1 Study Group Members and contributing participants.*

performance measures, incentives, or disincentives, pending its planned research and deliberations around privatization of child welfare services in early 2019.

This report represents a summary of the Study Group's recommendations regarding the design and execution of performance-based contracting in the Commonwealth of Kentucky. These recommendations are not mutually exclusive and are intentionally interrelated and interdependent. The report is designed to be reviewed and considered as a whole. Furthermore, these recommendations are designed to inform the foundation of performance-based contracting implementation within Kentucky's child welfare system. The Study Group intends to further this work and deepen its performance-based contracting recommendations in the context of its research and deliberations around privatization of child welfare services in early 2019.

# Recommendations

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The Study Group organized its recommendations for the design and implementation of performance-based contracting for licensed child-caring facilities and child-placing agencies in the Commonwealth within four overall categories. These include a focus on the *performance-based contracting model* and fiscal design; *performance monitoring and continuous quality improvement* of contracted providers; *resources and infrastructure* needed for success and sustainability of performance-based contracting; and the essential collaboration and working relationships needed between public and private partners (*public-private partnership*).

This same Study Group will be researching and developing a set of recommendations related to privatization of child welfare services in Kentucky in 2019. The deliberations and final recommendations related to privatization of child welfare services are directly related to the specific elements of developing performance-based contracts. As a result, the Study Group was limited in its ability to include specific recommendations related to performance measures, incentives, and disincentives pending the group's future work in the immediate months ahead. The Study Group anticipates that its continued focus on privatization will present the opportunity to build upon and introduce greater specificity into this initial set of recommendations.

The following recommendations and associated considerations take into account the historical context of contracting and privatization efforts in Kentucky, other state experiences and outcomes related to performance-based contracting, and the current landscape and transformation of child welfare in the Commonwealth. The recommendations are purposefully interrelated and, therefore, are not mutually exclusive. They are designed to be reviewed and considered as a whole.

## Performance-Based Contracting Model

The recommendations in this section relate to the fiscal design of the contracting model, along with some key considerations related to scope, planning, and implementation of performance-based contracting.

- 1. Develop and implement a hybrid performance-based contracting model that includes both financial incentives for positive performance and disincentives for negative performance.**

The Study Group recommends that CHFS implement a hybrid performance-based contracting model. Essentially, this means that the model would include the availability and application of both financial incentives (i.e. “carrots”) for meeting or exceeding identified performance targets, as well as disincentives (i.e. “sticks”) associated with prolonged negative performance incongruent with expected standards.

The incentive/disincentive structure should be created in partnership with representatives from the provider community, clearly articulated, and easily understood by all audiences. The incentives/disincentives should be tied to safety, permanency, and well-being outcomes, aligned with the CHFS’ strategic direction, and separate from agreed-upon cost reimbursement for services.

Options for incentives include providing “bonus” payments for each case that meets an identified goal, a lump sum payment equivalent to a contract percentage, or an enhanced case rate. Another possibility is for high-performers to be awarded larger contracts in a future performance period.

Options for disincentives include reducing the manner or volume in which cases are referred to providers. For example, CHFS could maintain a preferred list of providers and lower-performers would be dropped to the bottom of that list. Alternatively, the size of contracts could be reduced in future performance periods. Another option includes the application of financial penalties if performance targets are not met over time, and providers would be expected to pay a portion of that money back to the State.

In addition to not meeting performance targets on identified outcome measures, disincentives should also be applied for sustained negative performance on key process measures associated with the quality of practice.

*Considerations:*

*To facilitate the Cabinet’s capacity to provide incentive payments, both a methodology and resources would be needed for developing and sustaining this funding pool. One option is that incentive payments would be provided from the pool of savings generated by providers achieving intended child welfare outcomes (e.g. reduced number of days of foster care, reduced days in higher, more costly levels of care). Another option is a separate investment of resources designated for incentive payments, or a combination of the two approaches.*

*With regards to contracts with residential care providers, there is a reported 20% gap between the cost of providing services to youth in care and the amount at which providers are reimbursed (Willoughby, 2016). This resource deficit should be considered when establishing performance targets for these providers, the development of a funding pool for incentive payments, and creation of disincentives for failure to achieve performance standards.*

**2. Apply a developmental approach to implementing performance-based contracting, including a hold harmless period for providers for at least the first year.**

The implementation of performance-based contracting represents a transformational shift in the manner in which CHFS has historically contracted for and monitored services with Kentucky's provider community. As such, capacities need to be built within both public and provider agencies for performance-based contracting to be successful. At a minimum, the Study Group recommends a hold-harmless period for at least the first year for contracted providers during which the possibility of financial disincentives would not apply.

*Consideration: There are multiple ways the hold-harmless period could be approached. The first is a defined period during which neither incentives nor disincentives would apply. Alternatively, providers could be incentivized for positive performance during the hold harmless period even though disincentives would not yet apply. Allowing for incentives but not disincentives during a hold-harmless is one strategy for promoting buy-in to the performance-based contracting model during its initial implementation.*

The Study Group suggests several additional mechanisms by which a developmental approach could be applied. First, priority outcomes should be identified for all new contracts beginning July 1, 2019. From here, CHFS and providers can begin working together to develop appropriate methodologies to measure and monitor performance and determine baselines and targets. This would also represent a positive first step toward creating a collective environment oriented towards outcomes monitoring and improvement.

In addition, the Study Group recommends that this developmental approach be applied in the use of any disincentives for the provider community. For example, if a provider is initially found not to be meeting expected performance standards, the first step in the process should be the provision of some level of targeted technical assistance by CHFS or another entity, designed to assess and implement steps to correct the problem. If the negative performance is sustained through the next

performance period, a second step should be to place the provider on a formal corrective action plan. If after the first two steps the provider is still unsuccessful in its efforts to begin meeting performance targets, a disincentive may be applied. This progressive approach would promote a more collaborative environment focused on improving service delivery and safety, permanency, and well-being outcomes.

*Consideration: The demand within Kentucky's child welfare system currently exceeds providers' capacity to serve the children who are in foster care or at risk of entering foster care. As the Commonwealth moves towards performance-based contracting, it is imperative that CHFS leadership pay attention to the dynamics of supply and demand. CHFS will want to be mindful that initial implementation efforts do not diminish the Commonwealth's current ability to serve its most vulnerable children and families. However, performance-based contracting is intended to influence demand, specifically, to lower the need for foster care providers. This contracting model presents an opportunity to 'right-size' the child welfare system so that Kentucky has the quality and quantity of services where they are needed across the child welfare continuum to optimize the achievement of positive outcomes for children and families.*

### **3. Apply performance-based contracting across the full continuum of child welfare services.**

Ultimately, the Study Group recommends that CHFS move toward performance-based contracting across the continuum of Kentucky's child welfare services, including family preservation, child placement and foster care, residential care, and post-permanency support and services. However, a phased approach should apply to allow for a meaningful and high-quality implementation.

Key provisions in both HB 1 and the federal Family First Preservation Services Act well-position Kentucky to invest more heavily in evidence-based prevention and family preservation services. Correspondingly, contracts for family preservation services should include performance standards and targets related to safely reducing the number of children entering care in the same way that contracts with child-placing agencies and child-caring facilities should have corollary expectations for increasing placement stability and reducing time to permanency.

The developmental approach referenced in Recommendation #2 should apply to this phased approach of implementation as well. Specifically, CHFS should first begin applying a performance-based model in contracts with greater readiness to successfully transition to this approach, for example with foster care or residential care providers. As the Commonwealth grows its capacity to successfully implement a

broader array of evidence-based family preservation services, it should similarly apply a performance-based contracting model designed to promote increased safety and well-being outcomes for families served.

#### **4. Develop a strategic implementation plan for performance-based contracting that includes clear timelines and an intentional communications plan.**

The Study Group recommends that CHFS invest the time and effort needed to develop a strategic and sound implementation plan for performance-based contracting. This implementation plan should include the time, activities, and resources needed to build capacity within both public and private agencies to be successful with this contracting model to the benefit of Kentucky's children and families. Development efforts should include a rigorous review of other jurisdictions' performance-based contracting models to understand what has been successful and unsuccessful, and incorporate the best of 'what works' into the design and implementation of Kentucky's model.

In addition, the plan should outline the approach and timeframes for implementing performance-based contracting across the continuum of care. It is the collaborative will of the Study Group that performance-based contracting be fully implemented within foster care and residential services within three years, with the intention to expand its application to family preservation services as soon as possible thereafter.

The implementation plan should also take into consideration other major reform efforts (e.g. Medicaid decoupling, federal Family First Preservation Services Act, federal Comprehensive Child Welfare Information System development efforts) so that timelines are feasible and appropriately aligned. The development of this implementation plan should be a collaborative endeavor with both public and private agency partners and other key child welfare stakeholders.

Lastly, the implementation plan should include the development and execution of an intentional and robust communications plan. All internal and external staff and stakeholders will need to understand the elements of Kentucky's performance-based contracting model and its intended outcomes. Comprehensive and sustained communication will be essential to promoting buy-in, allaying fears, and ensuring shared understanding among the public and private child welfare community.

## Performance Monitoring and Continuous Quality Improvement

This section addresses recommendations for performance monitoring and continuous quality improvement (CQI). This includes the development of performance measures, including baselines and targets. It also includes the competencies and processes needed for effective performance monitoring and CQI.

### **5. Establishing performance measures and targets should be a transparent, collaborative process including public and private agency partners in the development process.**

The Study Group recommends that the establishment of performance standards, including the development of baselines and targets, be a joint process inclusive of public and private agency partners. A transparent approach will promote greater buy-in among all partners, and promote a common language and agreed-upon definitions for outcomes, measures, and performance targets. Furthermore, the public and private child welfare community in Kentucky has a long history of working well together (e.g., CWPAP), and a number of lessons learned that could be integrated into making performance-based contracting successful.

The outcome measures selected for each contract should be aligned with CHFS priorities, the goals for the overall Kentucky child welfare transformation, and the federal Children and Family Services Review measures. Outcome measures in performance-based contracts should be aligned with the desired outcomes of related sectors (e.g. behavior health) and not be at cross-purposes. For example, the time needed to effectively complete substance abuse treatment should be considered alongside goals related to timeliness of permanency achievement.

### **6. Performance standards and targets should take related outcomes into consideration.**

Many child welfare outcomes are interconnected. A jurisdiction that experiences a significant decrease in its time to permanency may also experience an accompanying increase in children and youth re-entering care. Similarly, a jurisdiction that significantly reduces the number of children entering care may experience a concurrent increase in the time to permanency for children in out-of-home placement. The Study Group recommends that the CHFS take these related outcomes into consideration when developing performance standards and associated incentives/disincentives.

## **7. Allow for flexibility and variation in the development of performance standards and targets.**

The Study Group recommends that CHFS allow for some flexibility and variation in the establishment of performance standards and targets to the extent feasible and appropriate. In some instances, the Study Group recognizes that there is a need for universal performance standards and expectations for all providers (e.g. prevention of maltreatment while in out-of-home care or other safety indicators). However, it is likely feasible and appropriate for other performance targets to be established using providers' baselines of past performance.

The Study Group suggests that CHFS further investigate and consider models that have been successful in other jurisdictions. For example, the performance-based contracting approach in Tennessee evaluates providers on two dimensions. First, provider outcomes during a contract period are assessed relative to their own past performance, as represented in provider specific baselines. Then, overall performance is adjusted based on the performance band to which a provider has been assigned. Those bands (high-performing, average, and low-performing) are determined based on how provider performance on the same outcomes compares across the network.

CHFS should develop a committee of public and private agency stakeholders to develop a banding structure appropriate for Kentucky. Performance targets should be developed and applied in fair alignment with the developmental state of providers without incentivizing poor performance or tolerating it for a sustained period of time.

## **8. Ensure risk adjustment models are communicated in plain language so that the intended audience can understand the steps taken to develop the models and their intended purpose.**

The Study Group recommends the information about risk adjustment models is communicated in plain language so that the models are understood by the intended audiences. This includes being clear about the models' intended purpose and the steps taken in their development.

Developing methodologically sound risk adjustment approaches is a critical part of performance-based contracting. Risk adjustment as a technique helps differentiate between organizational determinants of child and family outcomes from client-level determinants of the same outcomes (Raghavan, 2010). Risk adjustment helps to recognize and account for whether observed differences in provider performance are

due to organizational characteristics or client characteristics like age or substance use history. These approaches consider case mix, and have the capacity to level the playing field for providers working with very different types of children and families.

*Consideration: At the time when providers' final performance over a contract period is assessed, CHFS should be attentive to the impact that unique populations may have had on their performance. Depending on the methodology applied to both risk adjustment and the establishment of baselines and targets, it may be necessary to afford some special consideration to unique populations to avoid any unintended consequences of providers electing not to serve certain types of children and families.*

## **9. Ensure that comprehensive data collection and good data quality are the foundation of all performance monitoring and CQI efforts.**

The Study Group recognizes that effective performance monitoring and CQI processes are dependent on the availability of quality data. Therefore, the Study Group recommends that providers be held accountable for timely and accurate data entry into the data systems that feed into The Worker Information System (TWIST), the state's automated child welfare information system.

Data validation is the initial step in performance monitoring and CQI efforts, necessary to ensure that agency performance is being assessed using accurate data. Data validation strategies may include some element of onsite data validation activities using a pre-determined sample of cases (e.g. 10%). Validation can also be accomplished through a review of the raw data that is used in estimating baseline performance. At this junction, providers can review their own data and make necessary corrections to their processes while also alerting CHFS to data quality issues they may be experiencing within their agencies

Repeated observations of provider agencies engaging in untimely or inaccurate data entry should be considered in the development of disincentives.

## **10. Integrate contract performance monitoring within CHFS' overall CQI processes.**

The Study Group recommends that contract performance monitoring and improvement efforts be integrated into the public child welfare agency's broader CQI system. Public and private agency partners together are charged with achieving positive safety, permanency, and well-being outcomes for the families served by Kentucky's child welfare system. Therefore, efforts to monitor and improve provider agency performance should be seamlessly integrated into the Commonwealth's

approach to CQI and performance improvement. This is especially true as efforts to expand privatization of child welfare services in Kentucky are considered.

These integrated CQI processes should include the involvement and contributions of both public and private agency staff, and be anchored within a culture of teaming to promote outcomes improvement. Expectations for how provider agencies are responsible for helping Kentucky achieve statewide goals should be clearly communicated. It is equally important to communicate how public agency staff should support private agencies in their efforts to achieve statewide goals. Furthermore, identifying and implementing ways to integrate youth and family voice must be a priority within these integrated CQI processes.

**11. The provision of capacity-building and technical assistance services should be a fundamental component of the performance monitoring and improvement process.**

Consistent with previously stated recommendations for a developmental approach when implementing performance-based contracting, the Study Group recommends that capacity building support and technical assistance services comprise a key element of the CQI process. Despite many providers' steadfast commitment to effectively serving Kentucky's most vulnerable children and families, CHFS can anticipate that the need for practice change and outcomes improvement will likely be observed at every phase of the child welfare continuum.

Therefore, the Study Group recommends that capacity building and technical assistance related to making needed practice improvements be part of this transformation strategy. Moreover, the provision of technical assistance and the opportunity to improve performance should be afforded to every provider agency before a financial disincentive is applied.

**12. Include a clear appeals process for providers concerned with the assessment of their performance and application of potential penalties.**

The Study Group recommends that the implementation of performance-based contracting include the establishment of a clear appeals process for providers who would like to challenge CHFS' assessment of their performance, along with any resulting contractual penalties or withholding of possible incentive payments. The ability to appeal CHFS' decisions can provide an important 'safety valve' for providers who wish to obtain a third party's assessment of their performance. Creating this appeals process will be important for gaining providers' buy-in and commitment to the shift toward performance-based contracting.

## Resources and Infrastructure

Successfully executing performance-based contracting in Kentucky will require a considerable investment of resources and the creation of a sound infrastructure within both public and private child welfare agencies to be successful and sustainable. It is important to acknowledge that performance-based contracting is unlikely to be a cost-saving mechanism for the Commonwealth. Instead, this approach represents a way for Kentucky to ensure that resources are allocated most effectively to promote outcome improvements. Additional resources beyond the Commonwealth's current investments in child welfare are necessary for performance-based contracting to achieve its intended results.

### **13. Enhance administrative data system capacity and data sharing capability between CHFS and the provider community.**

Access to comprehensive and accurate data is the cornerstone of effective performance monitoring. To be effective partners, provider agencies also need access to their own data and associated reports. Accordingly, the Study Group recommends that resources be made available to CHFS to enhance the capacity of its administrative data system and its data sharing capabilities so that contracted providers can interface effectively with TWIST and access data relevant to their work and the children and families they are serving. One key strategy is to integrate these enhancements into Kentucky's efforts to build an administrative data system that aligns with the federal Comprehensive Child Welfare Information System (CCWIS).

Currently, providers enter data into their own administrative data systems. Then, providers must enter key data indicators into another data portal that interfaces with TWIST. This double data entry requirement creates an environment that often leads to inaccurate or incomplete data within TWIST. The Study Group recommends that opportunities and resources needed to enhance TWIST and/or eliminate redundancies in data entry be explored to promote data integrity and appropriate data access for the provider community.

### **14. Provide resources to support the capacity building and technical assistance needed to design and implement performance-based contracting within CHFS and the provider community.**

Both the Cabinet and the provider community will need guidance in the development and implementation of a performance-based contracting model that will be effective within Kentucky's child welfare system. The Study Group recommends that the Commonwealth invest in the capacity building and technical

assistance resources required to design the contracting model(s); identify appropriate indicators across different dimensions of the child welfare continuum; establish performance baselines and targets; and create effective mechanisms for ongoing performance monitoring and improvement strategies.

Similarly, technical assistance is needed to integrate performance monitoring into CHFS' ongoing CQI activities. Support and capacity building resources are also needed for provider agencies to create or enhance their internal CQI activities to accommodate integration of performance monitoring activities that align with their new contracts.

*Consideration: To promote the greatest likelihood of success, CHFS should consider identifying national, state, or local experts in performance-based contracting and CQI and partnering with them and other key stakeholders to design and implement this strategy in Kentucky.*

#### **15. Create a performance-based contracting project manager position within CHFS for child welfare.**

Implementing performance-based contracting in Kentucky's child welfare system will require strong and focused leadership. It is unlikely that these duties can effectively be absorbed within an existing position, or effectively spread across a number of positions. Therefore, the Study Group recommends creating a specific position within CHFS, DCBS to lead and oversee the implementation of performance-based contracting.

*Consideration: Consider locating the project manager position in the CHFS, DCBS Commissioner's office to promote communication and coordination across all administrative functions including policy, practice, fiscal, contract monitoring, and CQI.*

#### **16. Ensure there are a sufficient number of staff within CHFS with the right sets of competencies to effectively design, procure, manage, and monitor contract performance and support performance improvement.**

The Study Group recommends that CHFS establish a team of sufficient size with the right sets of competencies to effectively design and implement performance-based contracting and support practice improvement within the provider community. This team needs to skill sets and competencies to design, procure, manage, and monitor contract performance and support performance improvement. One strategy is to evaluate the need to reorganize CHFS, DCBS to build capacity and resources for performance-based contracting.

Currently, child welfare contract monitoring capacity within CHFS is limited only to billing and ensuring compliance with contract requirements. Effective monitoring within a performance-based contracting environment requires skills related to data and evidence use, the identification and implementation of effective performance improvement strategies, and other CQI competencies. Accomplishing this will require hiring new staff that possess, or can be trained, on these competencies or a significant internal restructuring to include substantial training and coaching for staff assigned to these new roles.

Previous recommendations have addressed the capacity building and support which provider agencies will need to improve practice in areas in which they are underperforming. CHFS will need additional skilled staff to provide this necessary technical assistance to the contracted providers.

### **17. Revise and re-issue the 2015 Performance-Based Contracting Readiness Assessment with the provider community.**

In 2015, CWPAP issued a readiness assessment to the Kentucky provider community for performance-based contracting. That readiness assessment tool should be reviewed, refined, and re-issued to understand the extent to which the current provider community across the child welfare continuum of care is prepared to successfully participate within a performance-based contracting model. This would likely expand beyond the original pool of respondents, providing CHFS with current and comprehensive information about provider readiness for performance-based contracting and other elements related to Kentucky's larger child welfare system transformation.

### **18. Develop system-wide training opportunities on performance-based contracting for public and private agency partners.**

Significant training opportunities will be needed to support the shift towards performance-based contracting. The Study Group recommends that training opportunities be integrated to allow public and private agency child welfare staff and stakeholders to learn about performance-based contracting in a shared environment. This delivery approach would allow participants to process new information together, ask questions of one another, and promote the collaborative partnership intended by the model.

*Consideration: These shared training opportunities could be regionally-based, involving both DCBS leadership and local providers as instructors. These learning opportunities could be ongoing and employ a train-the-trainer model to support sustainability.*

## Public-Private Partnerships

A collaborative public-private partnership in the Commonwealth will be essential to the successful implementation of performance-based contracting in Kentucky. The importance of a high level of trust, transparency, and open communication between the public and private agencies cannot be overstated. The following recommendations address elements necessary to create and sustain a strong public-private partnership.

### **19. Establish a collaborative, third party child welfare advisory committee charged with overseeing the design and implementation of performance-based contracting in Kentucky child welfare services.**

The Study Group recommends that Kentucky follow the example of some peer jurisdictions (e.g., Illinois) by developing a third-party entity with the responsibility of providing guidance and oversight to implementation of performance-based contracting in child welfare. This oversight body should be comprised of public and private agency leadership, child welfare advocates, and other important stakeholders. In addition to being an important partner within Kentucky's overarching CQI process, this third-party entity, or a subset of its members, could also serve as the appeals board responsible for the review and mitigations of concerns and challenges presented by the provider community with the application of financial incentive and penalties.

*Consideration: CHFS should consider employing term limits for this oversight body, to ensure diverse representation across the Commonwealth's child welfare community and the opportunity for other public and private agency leaders and stakeholders to contribute over time.*

### **20. Pursue the development and implementation of a collaborative child welfare practice model.**

Given the movement toward deepening the privatization of child welfare services in Kentucky as well as the implementation of performance-based contracting, the Study Group recommends that CHFS partner with the provider community and other stakeholders to develop and implement a collaborative practice model for Kentucky child welfare. Often comprised of core values, principles, and strategies, practice models create a framework to govern child welfare practice and create shared expectations between public and private agencies about ways of working together and desired outcomes.

The Study Group recommends that core values for a collaborative practice model include trust, respect, collaboration, safety, accountability, and excellence. Consistent with CHFS' larger child welfare transformation efforts, creating a culture of safety within Kentucky child welfare should be a core tenet of the collaborative practice model as well. In addition to focusing on the achievement of positive safety outcomes for child welfare-involved children and youth, this also includes creating an environment of psychological safety for the public and private agency workforce and a culture of learning. This approach is consistent with the developmental approach suggested for performance-based contracting and performance improvement, in which provider agencies have the opportunity to learn from negative performance and receive technical assistance to implement course-corrections.

The Study Group recommends that an expectation for trauma-informed and trauma-responsive practice be clearly reflected in the practice model. In addition to high level concepts of what trauma-informed practice includes, the Study Group recommends that trauma-responsive behaviors be clearly operationalized, measurable, and incorporated into performance-based contracts and CQI processes. This is consistent with the federal Family First Preservation Services Act legislation, which contains new federal requirements for strengthened trauma-informed practice.

*Consideration: While the Study Group overall supports the development and implementation of a collaborative practice model, participants caution CHFS from becoming overly prescriptive in their practice expectations for the provider community. Performance-based contracting is intended to promote flexibility for providers in their efforts to meet performance targets and achieve intended outcomes. The Study Group acknowledges that creating shared expectations for collaboration and quality of practice represent a positive step forward. At the same time, the Study Group is committed to creating an environment in which our collective focus on outcomes achievement is enhanced, and providers retain their autonomy and ability to make needed adaptations to their service delivery approaches to ensure their success.*

# Conclusion

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The Study Group appreciates the review and consideration of these performance-based contracting recommendations by the Kentucky Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee.

Implementing performance-based contracting is a promising fiscal strategy with the capacity to contribute to the success of the Kentucky child welfare transformation and the achievement of the Cabinet's priority outcomes: safely reduced entries into foster care, improved timeliness to appropriate permanency, and reduced caseloads for the child welfare workforce. Performance-based contracting also aligns well with concurrent federal efforts through the Family First Preservation Services Act to right size the child welfare system by investing more in family preservation services, and ensuring that children and youth entering care are placed with families in the least restrictive settings possible. The Kentucky provider community represents strategic partners in these efforts, and a strong collaboration will be essential for deepening public and private agency commitment to outcomes improvement and the advancement of service delivery for the Commonwealth's most vulnerable children and families.

The Study Group looks forward to continuing its work in 2019 to develop a set of recommendations for the expansion of privatization within Kentucky's child welfare system. The interrelatedness of privatization and performance-based contracting will allow the Study Group to build upon and enhance the recommendations contained in this report.

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## Appendix B: Privatization in Child Welfare: Summary of Select Resources

Privatization in Child Welfare  
Kentucky House Bill 1 Study Group  
*Summary of Select Resources*

**Collins-Camargo, C., Hall, J., Flaherty, C., Ensign, K., Garstka, T., Yoder, B., & Metz, A. (2007). Knowledge Development and Transfer on Public/Private Partnerships in Child Welfare Service Provision: Using Multi-Site Research to Expand the Evidence Base, *Professional Development: The International Journal of Continuing Social Work Education*, Vol. 10, No. 3, ISSN: 1097-4911**

The study is part of the Quality Improvement Center on the Privatization of Child Welfare Services (QIC PCW) study funded by the federal Children’s Bureau to promote knowledge development regarding public/private contracting in child welfare. The article includes a summary of the literature, highlights from key interviews and forums with state leaders, and findings from stakeholder interviews.

The authors note that there is an inconsistency in the way that privatization is defined in child welfare. They also recognize that there is a gap in data needed to inform privatization decisions and a lack of adequate baseline data to measure the effectiveness of privatization efforts. Together these factors inhibit the ability to determine how extensive any sort of change has occurred because of privatization efforts.

Key discussions with 45 public child welfare administrators on key topics related to child welfare privatization are referenced in the article. Topics included commonly contracted services, definitions of privatization, privatization of the case management function, future privatization plans, barriers to privatization, discontinued efforts of contracted services, and information of interest to administrators on child welfare privatization. The barriers that were raised to considering or implementing privatization of services through these discussions included 1) a lack of capable providers to deliver the services, 2) funding limitations, 3) union, agency staff, and/or other political resistance to privatization efforts, and 4) state laws that restrict the delivery of services to the public system. Approximately one-fifth of the responding states indicated they had discontinued or scaled back their privatized contracted services, often due to unsatisfactory performance.

Findings from discussions with child welfare stakeholders on privatization are also included in this article. The two common themes that emerged include defining privatization and workforce issues. The theme of defining privatization included that privatization should encompass the continuum, from traditional subcontracting through case management of core services. Participants also stated that a readiness assessment and lengthy planning process are keys to successful implementation. The theme around workforce development focused on the importance of a clear delineation and understanding of roles and a transfer of knowledge for both public and private agency staff, including the role of positive partnerships.

Lastly, the article details key drivers to successful implementation identified by the authors which include staff training; staff coaching and supervision; facilitative administration; and system-level partnerships.

**Collins-Camargo, C., McBeath, B., & Ensign, K. (2011). Privatization and Performance-Based Contracting in Child Welfare: Recent Trends and Implications for Social Service Administrators, *Administration in Social Work*, 35:5, 494-516, DOI: 10.1080/03643107.2011.614531**

The study is also part of the QIC PCW, but with a focus on the experiences of developing partnerships between public and private administrators. The article highlights that while social service privatization has increased, there is still a lack of information concerning how public and private administrators manage performance contracts and how collaborative relationships that promote desired client outcomes are cultivated. Findings from interviews and surveys with national public agency administrators by the QIC PCW regarding the scope and mechanisms of contracting in the child welfare sector are included.

The literature review highlights that privatization and performance-based contracting require that administrators devote increased attention to coordination of strategic efforts across and within key departments and agencies. There are four competency areas identified as critical for facilitating the transition to privatized contracting environments. These include ensuring ongoing collaboration inside and outside the organization; continuous communication and strong interpersonal relationships; clearly defined and agreed-upon performance measures; and the use of integrated research, data and case management systems.

This article contains learnings from public agency administrators who have developed public/private partnerships. The findings identify key administrative and agency practices that public and private agency administrators used to develop public/private collaborations and sustain effective cross-sector partnerships. The first theme includes

the development of inter-organizational partnerships to improve child welfare service delivery. Respondents understood that the public sector alone could not deliver effective systemic change to address the issues and contributing factors surrounding child maltreatment, and that developing formal and informal alliances with private agency directors was critical. Second, some administrators developed different methods of communicating internally and with partner agencies to allay staff concerns, reduce confusion, and establish frameworks to promote privatization. Third, administrators collaborated with private providers in developing operational goals and metrics for use in the development of performance contracts. Lastly, integrated case management systems and data are critical in planning and designing the implementation of privatization.

**Flaherty, C., Collins-Camargo, C., & Lee, E. (2008). Privatization of child welfare services: Lessons learned by experienced states. *Professional Development: The International Journal of Continuing Social Work Education*, 11(1), 6–18.**

The article includes more findings and analysis from the QIC PCW, including lessons learned from states implementing privatization. For this QIC PCW project, privatization was defined as instances in which the private agency had primary case management responsibility. From the 45 states with representatives that participated in key informant interviews, researchers found that most states maintain responsibility for case management of child welfare services within the public sector. Only ten percent of responding states had implemented large-scale reform, meaning they had shifted primary case management to private agencies, while another 20% of states reported smaller scale or pilot initiatives.

This report also focuses on an analysis of findings and knowledge derived from the QIC PCW “targeted forums” comprised of representatives from 12 states that have experience in privatization efforts. These forums provided an opportunity to explore the challenges and strategies associated with efforts to significantly expand partnerships with private entities for the delivery of child welfare services. The findings reported in the article are organized into three broad themes or content areas that include contract payment systems, oversight of privatized child welfare services, including performance standards and measurements, and contract monitoring. Highlights from participants in the targeted forums in these areas include:

- Contract payment structures. The states represented in the forums noted the following forms of contract payment structures, including case rate (the private provider receives a set rate per child served); layered case rate (specific rates are assigned to different cases based on a need level); capitated rate (the contractor is paid a flat fee and receives a certain number of cases from the state agency); and performance contracting based on dynamic caseload (a variation of the

capitated model in which payment is based on moving an agreed-upon portion of caseload to permanency in an agreed-upon timeframe).

- Performance standards and measurements. The general recommendations from the participants regarding the oversight of performance include: 1) specific performance indicators should be used including permanency rates, child maltreatment recidivism, and longitudinal measures of well-being, 2) measuring both time to permanency and type of permanency reached is important, 3) and payment should be linked to performance.
- Contract monitoring. Participants stressed that both state and private providers must have the ability to collect and report data and that data systems must be compatible; contract monitoring activities should be integrated and streamlined with an emphasis on quality; staffing levels should reflect the importance of quality assurance and contract monitoring; and child welfare system leaders should ensure there is common language or knowledge around contract monitoring among agencies.

Lastly, two themes that emerged throughout the findings include 1) states continue to explore a range of contract payment systems and contract oversight techniques; there was variance identified by the 12 states in the study in how to address common challenges, and 2) the importance of private and public agency relationships as contracting relationships change and evolve as systems mature.

**Flaherty, C, Collins-Camargo, C., & Lee, E. (2008). Privatization of child welfare services: Lessons learned from experienced states regarding site readiness assessment and planning. *Children and Youth Services Review, 30(7), 809–820.***

This QIC PCW article focuses on the findings from the targeted forums with representatives from states experienced in privatization. The forums provided an opportunity to explore the challenges and strategies associated with a range of issues, including an assessment of readiness and planning of privatization initiatives.

This article reports major findings regarding assessment of site readiness for privatization, and issues around planning implementation of privatized models. The following were the most frequently cited themes or lessons learned, and represent a broad framework of issues around assessment, planning, and initial implementation.

- There was an impetus for the privatization efforts
- Time is needed for a well-conceived series of phases in the planning process
- A shared vision among private and public agencies is necessary
- Stakeholders should be engaged early in the planning process
- Private provider capacity should be assessed

- Estimating accurate and sufficient payment level for contracts is an extremely complex but crucial task
- Use administrative data in the planning process
- Flexibility is needed in both the planning and implementation phases
- There is a benefit of designing contracts with meaningful performance standards to meet system goals
- Privatization requires significant re-definition of roles within the public agency
- Training considerations for both public and private staff
- Importance of a high level of trust and open communication between the public and private agencies

Findings from this article are important to the field because they provide practical information on common themes about planning and initial implementation of privatization efforts as reported by a large group of states and counties that have implemented such efforts. Participants represented a range of privatized systems that varied in service model and scope as well as length of history of implementation.

**Freundlich, M., McCullough, C. (2012) Privatization of Child Welfare Services: A Guide for State Advocates, State Policy Advocacy and Reform Center, First Focus.**

This brief provides an overview of child welfare privatization and how advocates can be involved in states' efforts to privatize child welfare services. The article describes child welfare privatization efforts as including a shift in responsibility and decision-making authority; transitioning core mandated child welfare functions to the private sector; and the introduction of some level of financial risk-sharing between public and private agencies.

Four broad goals of privatization initiatives that are highlighted:

- 1) Improved outcomes consistent with federal and state mandates and the Child and Family Services Review
- 2) Improved child welfare system
- 3) A more efficient use of taxpayer resources
- 4) Greater alignment between programmatic goals and fiscal resources.

The brief discusses the role of advocates in privatization and emphasizes that state advocates can help policy makers and administrators monitor and improve initiatives that are not meeting expectations. Roles and responsibilities of advocates include:

- Learn more about privatization or performance-based contracting in other jurisdictions Ensure that the best interests of children and their families are at the center of planning and designing privatization

- Help foster a thoughtful, respectful, data-informed planning process
- Carefully analyze both public and private agency practices and performance data
- Hold child welfare agency administrators and policymakers accountable for, and support the establishment of, a continuous quality improvement approach
- Help planners understand that child welfare privatization needs to be conducted in a comprehensive and ongoing manner, and expected outcomes may only be realized over time
- Communicate accurate information to constituents about the initiative.

Informed by advice from public and private agency administrators and advocates, the brief includes tips and lessons learned for advocates when privatization is being considered, planned, implemented, evaluated, or re-assessed. These include:

- Commitment to change starts with an inclusive planning process and a shared vision between public and private agencies as well as other stakeholders
- Advocate for agreed upon outcomes and performance expectations that will be measured over time so that the effectiveness of the approach can be assessed
- Providers can only work with adequate service capacity, including services provided and reimbursed from multiple systems
- Sufficient public and private agency capacity and commitment is needed to succeed Accurate and timely data are needed for contract reforms to be planned, implemented, and evaluated
- Mandates must be adequately funded and costs savings may not happen immediately (or at all)
- Front-line staff buy-in and cross-agency staff training are both essential
- There is no perfect contract, but there must be a sound approach to procurement and contract negotiation
- Transitions are difficult and take time
- Successful initiatives continuously monitor and nurture the public-private partnership to achieve shared accountability for results.

Overall, a common theme raised in the brief for privatization is improving outcomes for children and families. State advocates that may be involved in the planning and assessment and contract design work can contribute to creating an initiative that is well executed, measurable, and accountable.

**Hubel, G.S., Schreier, A., Hansen, D.J., & Wilcox, B. (2013). *A case study of the effects of privatization of child welfare on services for children and families: The Nebraska experience*, Faculty Publications, Department of Psychology. 824. <http://digitalcommons.unl.edu/psychfacpub/82>**

The article reports findings from the Child Welfare Privatization Initiatives Project, created in 2007 as a joint effort between the United States Department of Health and Human Services and the Office of the Assistant Secretary for Planning and Evaluation. The framework identified by this project produced key considerations for states moving towards a privatized system.

These key considerations include:

- 1) Why privatize?
- 2) What is the level of stakeholder support for privatization?
- 3) Has the public agency set aside enough time for planning and designing the initiative?
- 4) Are there sufficient administrative cost data to develop contracts and estimate case rates and other service costs?
- 5) Is there viable competition in the community to provide the targeted services?
- 6) Do providers have sufficient skills and administrative capacity to manage large scale contracts and monitor service delivery and client outcomes?
- 7) Do private agency front-line staff have sufficient skills and knowledge about child welfare policies and evidence-based reform to deliver services?
- 8) Is the public agency prepared to design a new service delivery system and assume new roles focused on contract design, procurement, and monitoring?
- 9) Are roles and responsibilities clear between the public and private sectors?
- 10) Will privatizing services alone bring about improved outcomes or will the agency need to implement other reforms in tandem with privatization?

Within this article, these considerations are applied to Nebraska as a case study of a large-scale effort to privatize child welfare services that was largely unsuccessful. Table 2 in the report (page 13) highlights these considerations as well as the factors that may have impacted Nebraska's readiness to move to a privatized system. Within this effort, Nebraska experienced reductions in the quality and availability of services for children and families and significant increases in the cost of child welfare service. Private agencies also invested over \$21 million dollars of their own funds in efforts to uphold their contracts.

Recommendations for practitioners and policymakers considering participating in efforts to privatize child welfare are shared based on Nebraska's experience. Lessons learned from Nebraska's recent statewide privatization effort to improve future initiatives

include: Those involved in the planning and design of privatization should consider the potential for increased short-term costs. Clear plans for the delegation of roles and responsibilities should be developed. Privatization efforts should be closely tied to desired outcomes. Policy objectives should be balanced by the realities of state and local service systems.

**Lee, E., Samples, C. (2008). Child Welfare Privatization Initiatives – Assessing Their Implications for the Child Welfare Field and for Federal Child Welfare Programs: Evolving Roles of Public and Private Agencies in Privatized Child Welfare Systems, Topical paper # 3. Technical report. Washington, DC: U.S. Dept. of Health and Human Services, Office of the Assistant Secretary of Planning and Evaluation.**

This paper series builds on and incorporates research conducted under the QIC PCW. This is the third paper in the series and focuses on transitioning case management functions from public to private agencies as well as on how roles and responsibilities are shared and divided once privatization occurs. Largely, the paper details how some states prepared their workforce for new roles and responsibilities associated with privatization, examples of dividing key case management activities, experiences of states that use private agencies to deliver foster care case management and have operational SACWIS systems, including challenges faced by agencies with new information systems.

Privatization shifts the authority for decision making creating the need to establish clear roles and responsibilities for public and private agency workers. This represents one of the more complex activities in implementing new contracts. A summary of approaches for establishing staff roles and responsibilities, decision-making, case planning, and court reporting are detailed in the report. Highlights of some of these roles and responsibilities include:

- 1) Transitioning cases to private providers: In six of the seven jurisdictions contacted for this study, respondents discussed some form of face-to-face case staffing at, or near, the time of case transfer to discuss the family's strengths and needs and initial case planning.
- 2) Assessing child and family needs: Several sites explained that this was a slightly blurred function between systems including multi-tiered approaches to case assessment and transfer activities, an assessment beginning with the public agency staff and finishing with the private agency staff, and staffings being held between public and private staff to complete the assessment.
- 3) Determining eligibility for federal funds: Five of the seven sites interviewed described systems where the public agency determines eligibility and prepares

the paperwork for Federal claims, while private agencies supply the state with support information and documentation. In the two remaining sites, private agencies played larger roles in this process having a separate private contractor that completes eligibility determination with the public agency responsible for final approval of submissions.

- 4) Selecting client services: In all of the sites contacted for the study, the private agency makes decisions about the appropriateness of services to be provided or purchased for clients.
- 5) Setting visitation schedules: Sites described more public agency or court input into decisions about visitation schedules, with private agencies stipulating the intensity of visitation schedules and the number of required casework contacts.
- 6) Presenting case plans in court: In all seven sites, a private agency caseworker presents the case plan in court, oftentimes with a public agency worker also in attendance.

There were three broad lessons that emerged related to transitioning case management roles and responsibilities in the privatization process. These were 1) the importance of clarifying roles and responsibilities early to avoid confusion and to ensure needed work gets done, 2) need for ongoing, structured communication between systems, and 3) appreciate that roles and responsibilities will evolve over time and so will the training and support needs.

Challenges with data entry in a privatized system was a prominent theme within the study. A central case management responsibility is data entry into a computerized case management system to track cases and monitor progress. This arose as a challenge in nearly all sites when public and private information systems are incompatible, requiring dual data entry. States have actively tried to facilitate access to the State Automated Child Welfare Information Systems (SACWIS) through collaborative implementation activities and infrastructure enhancements. Addressing this challenge has proven important to all privatization efforts.

**McCullough, C., Lee, E. (2007). *Child Welfare Privatization Initiatives – Assessing Their Implications for the Child Welfare Field and for Federal Child Welfare Programs: Program and Fiscal Design Elements of Child Welfare Privatization Initiatives, Topical paper # 2. Technical report. Washington, DC: U.S. Dept. of Health and Human Services, Office of the Assistant Secretary of Planning and Evaluation.***

This paper series builds on and incorporates research conducted under the QIC PCW. This second paper in the topical series is based on knowledge gained from field experience, literature on child welfare privatization and on prior research conducted by the QIC PCW. It describes variations and similarities in program and fiscal design elements of current privatization initiatives. It presents a range of program and fiscal design elements for public agency administrators to consider and highlights some anecdotal lessons learned from state and private agency administrators that have privatized child welfare services.

The program design elements raised in the paper that should be considered in any privatization initiative broadly include: establishing program goals, selecting services and a target population, determining size and scope, accessing needed services, defining case management elements, designing oversight and accountability systems, and weighing the merits of different contracting structures. The different contracting structures most considered by states in their privatization efforts include:

- 1) Lead agency model with the goal of ensuring a single point of accountability for the operation of the privatized services at the local level. This model includes a number of variations such as the lead agency providing most if not all services with few or no subcontracts, a lead agency that procures most services from other community-based agencies and/or directly provide case management or other limited services, or a lead agency that provides no direct services and instead focuses on the development and management of a provider network and the overall operation of the
- 2) Multiple provider model which uses a form of performance based contracts for various child welfare services. The goal of the performance based contract is to purchase clearly defined results rather than services. Establishing new requirements, standards, and payment methods makes for a more competitive environment, and can result in a system where only the best performing providers survive.
- 3) Mixed model which shares distinguishing features from both the lead agency model and performance-based contracting model. Some agencies currently operating under performance based contracts have had to procure services from other community agencies in order to meet contract requirements, functionally

operating as a lead agency. Additionally, many states and local jurisdictions that use lead agencies have clear performance expectations that are aligned with contract payments.

The fiscal design features that should be a consideration when planning a privatization initiative are also discussed in the paper. Broadly, these include: pricing the overall system, selecting a payment model and payment schedule, establishing payment rates for contractors, determining when to introduce financial risk into contracts, and deciding when and how decisions will be made to adjust payment rates, when needed. Research has found that these fiscal design features may vary within the same contract over time and between different types of contracts within the same state. The most common fiscal designs highlighted in the paper include:

- 1) Global budget transfers which is typically a payment arrangement where each lead agency is given a predetermined percentage of the state's annual operating budget for child welfare services and the community-based care agencies are required to provide all services, in whatever amount needed, regardless of how many children and families in their geographic area may require services. At the time of this report, Florida was the only state that uses a global budget transfer for its child welfare initiative. However, some states have used global budgets for various Medicaid managed care reforms.
- 2) Case Rates represent the most common payment arrangement for child welfare contractors. The private agency is paid a predetermined amount for each child referred. This reduces the contractor's risk with respect to absorbing increases in referrals. However, the contractor remains at risk for the amount or level of services used and the costs of those services.
- 3) Performance Based Payment Models is a payment structure where some (or all) of the payments will only occur if contractors are successful at meeting the contract's performance goals. Public child welfare agencies are increasingly aligning payment amounts or schedules and/or bonuses or penalties to results.
- 4) Bonuses and Penalties is the use of financial incentives and sanctions and applying them to both traditional fee for service contracts and case rates to achieve specific results. Initiatives differ widely in the selection of performance measures and in the amount and balance of incentives and disincentives that are provided.

Lessons learned by states implementing various privatization initiatives are highlighted. The general valuable lessons include the need for administrators to build trust, open communication, and strong leadership; understand that transitions are hard; acknowledge that a contractors' ability to perform will be limited by many of the same barriers face by the previous public system; and plan for inevitable change.

Other lessons highlighted are organized by the type of model implemented. Lessons learned as noted from private agencies operating under risk or performance based payment contracts include assuring private providers have meaningful input into the planning and design phase; alleviate any data concerns by which performance would be measured; and reinvest any savings back into the system to improve services and protect children, i.e., increase staffing of case management teams, recruitment of foster parents, etc.

Lastly, lessons shared by private agency administrators operating under risk or results-based contracts include building partnerships; ensuring the financing option gives flexibility in funding and specifies the outcomes and results desired; requiring accreditation as an added protection for quality; mutual understanding and agreement about the goals and direction of the project; data accuracy, accessibility, and integrity; and ensuring adequate resources upfront to handle the transition and implementation process.

**Myslewicz, M., (April 2010). An Analysis of the Kansas and Florida Privatization Initiatives, Casey Family Programs, retrieved on December 11, 2018**

This is an internal report prepared by Casey Family Program which includes an analysis of the privatization efforts of Kansas and Florida. These two states were chosen because at the time of the report they were the only two states that had privatized all child welfare services statewide, other than investigations. The report includes a review of the literature on child welfare privatization, nine interviews conducted with private provider staff from Kansas and Florida directly involved with the privatization initiative, and interviews with a national consultant on privatization in the target states.

Common themes emerged regarding the lessons learned from Kansas and Florida for an effective transition to a privatized child welfare system around issues of assessment, planning, and implementation. These broadly include the importance of a phased-in transition that has a clear and articulate plan; developing strong public-private partnership, including the community, is critical to success; engaging all stakeholders in the planning and implementation processes is important; an observed lack of cost savings was evident; clarify dual case management roles upfront; and that a commitment to change is essential.

The benefits of privatization experienced by Kansas and Florida were also highlighted as their child welfare systems have improved since the transition to privatization. These experiences were related to performance and fiscal outcomes of privatization and generally include the ability to be innovative and flexible, an increase in funding and visibility, the use of advocacy to impact advocacy decisions, an increase in data

collection efforts, an increased level of accountability due to clear and measurable outcomes, and improved performance outcomes.

**Schwab, J., Faulkner, M., Landuyt, M., Fong, R., Scott, J., Gerlach, B. & Ryan, T. (2014). Texas foster care redesign: Initial insights into foster care reform. Austin, TX: The University of Texas at Austin.**

The report provides findings from a process evaluation on the redesign of the foster care system in Texas. The redesign is a multi-year process that has involved over 3,000 stakeholders, consideration of numerous foster care models, and detailed data analyses related to how children fare in the TX foster care system. The foster care redesign's goals are to: 1) Keep children and youth closer to home and connected to their communities and siblings; 2) Improve the quality of care and outcomes for children and youth; and 3) Reduce the number of times children move between foster homes.

Rather than contracting with multiple foster care agencies and other service providers for services, the Department of Family and Protective Services (DFPS) began contracting with one agency (Single Source Continuum Contractor or 'SSCC') in specific 'catchment areas' that is responsible for providing a continuum of care to youth who are in foster care and their families. The implementation of the redesign in a catchment area occurs in three stages: 1) the initial stage requires the SSCC to provide a continuum of foster care, Preparation for Adult Living (PAL) services and Supervised Independent Living (SIL) services, 2) those services continue in the second stage of implementation with the addition of services to the families of children in foster care, and 3) the third stage of implementation requires the SSCC to continue offering all of the services provided in the first two stages with financial incentives and remedies being assessed for the timely achievement of permanency for children and youth in foster care.

The primary purpose of this study was to understand the early implementation processes, strengths, and challenges in order to inform future catchment areas. There were two components of this process evaluation: 1) a qualitative component included interviews and focus groups with 67 individuals involved in or impacted by the redesign and a survey and interview conducted with 19 Public Private Partnership members and 2) surveys completed by DFPS employees and the SSCC's employees and provider agency employees; surveys assessed the organizational climate and culture in the area as well as the collaboration.

Findings from both study components suggest that the redesign pilot experienced initial implementation issues, but that people in the catchment area are committed to making the redesign work. Respondents identified many challenges to a successful redesign including 1) services are lacking in the area to provide a continuum of care to youth, 2)

confusion among ground level workers regarding responsibilities and roles under the redesign, including technology issues that hindered staff from either making or documenting placements efficiently, and 3) collaboration emerged as a challenge; the public-private relationship shifted prior to implementation from a partnership to a more contractual relationship. Despite these challenges, the redesign was generally viewed as a positive change with a sense of optimism about the potential changes the redesign can have on the foster care system.

Based on these findings, a few recommendations for further implementation were made. These include 1) Keep in mind the conceptual ideas behind the redesign when evaluating outcomes; 2) financial solvency of the redesign is crucial and adequate resources must be levied from the state and community to build and sustain a continuum of care for those in the area, 3) a partnership approach is crucial to ensuring success and will require support from state level policymakers and state level administrators, 4) evaluation must continue to be a part of the redesign.

**States' Efforts in Ongoing Communication between Public and Private Partners, [www.childwelfare.gov](http://www.childwelfare.gov), retrieved 12/7/2018:  
<https://library.childwelfare.gov/cwig/ws/library/docs/gateway/Blob/61222.pdf?w=recno%3D61222&upp=0&rpp=10&r=1&m=1>**

This brief is a compilation of responses from seventeen states who shared their strategies for promoting ongoing communication between public and private agencies in a dialogue on the QIC PCW listserv. The re-occurring theme from these states was around the importance of communication in public and private child welfare agency partnerships.

Many states emphasized the positive relationships that had been built as a result of their partnerships. The themes identified include: leadership needs to take an active role in providing discussion between public and private agencies; formal councils, commissions or committees appear to have benefits for both public and private agencies; and both formal as well as informal communication plays a role in developing relationships. These themes are organized around state examples for how to build strategies and structures for increasing the promotion of open and ongoing communication between public and private agencies. Some specific examples include holding ongoing bi-monthly meetings between public and private provider associations in Ohio, implementing a continuous quality improvement process with contractors in Missouri and New Mexico, and a child welfare commissioner conducting a statewide tour meeting with private providers across Texas.

### **Privatization of Child Welfare Services: Themes and Considerations**

The following highlights the themes and considerations as discussed with the Kentucky House Bill 1 Study Group by the Expert Panels on March 1 and March 22, 2019. The Expert Panels consisted of six experts who were directly involved with or who experienced privatization of child welfare services in their state. This compilation is designed to provide an overview of the themes raised by the members of the expert panel and is followed by related highlights in the literature. This document is intended to support the House Bill 1 Study Group as it considers the feasibility of expanding the privatization of child welfare services in Kentucky.

#### **Expert Panel members:**

- Brian Clapier, Chapin Hall at the University of Chicago; executive experience for both New York City Administration for Children's Services and Philadelphia's Department of Human Services
- Crystal Collins-Camargo, Professor and Associate Dean for Research at the University of Louisville Kent School of Social Work and former director of the National Quality Improvement Center on the Privatization of Child Welfare Services
- Ryan Dowis, Cornerstones of Care, Private provider serving both Kansas and Missouri
- Tricia Fox, Executive Director, Center for Youth and Family Solutions, and Co-Chair of the Illinois Child Welfare Advisory Committee
- Anne Heiligenstein, Casey Family Programs; former Commissioner of Texas Department of Family and Protective Services
- Bonnie Hommrich, former Commissioner Tennessee Department of Children's Services

#### **Themes and Considerations: Highlights from the Expert Panels**

1. Systems look to privatization as a strategy for a number of reasons. For those represented in the panels, expanded privatization was pursued in a response to a needed change or reform to the system to improve outcomes or as a direct response to a crisis in the system such as a child death.
2. Various models have been implemented in the systems represented in the panel; each system employed varying degrees of a phased-in approach as they

privatized initial elements of case management, expanding over time.

Incremental change has been linked to success and increased partnerships.

3. Determining desired outcomes initially will ensure accountability; it is a data-driven process that needs to be understood at all levels.
4. The importance of engagement efforts with all stakeholders, early in the process and ongoing, cannot be under-estimated and will be a critical factor to success.
5. Privatization is not a budget neutral process, and often requires a significant investment of resources from the state or county.
6. Experts communicated that no site is fully privatized. Privatization represents an evolving process with refinements and ongoing changes, highlighting the need for strong continuous quality improvement and quality case review processes.

## A. Why Privatize?

<b>Themes Raised by the Members of the Expert Panel</b>
1) Child welfare system reform may not happen solely through privatization of service provision, and privatization often occurs alongside additional system improvement strategies; the challenge is to not have one child welfare system transformation strategy detract from the other. Broader child welfare reform strategies and privatization may compete with each other so take care in moving these efforts forward separately.
2) It is important to decide what it is you want to accomplish or change within your agency - what change you hope to make or problem you want to solve - and then decide if privatization is the tool to move your system towards the intended outcome.
3) The top reasons for privatization shared by the experts included: <ol style="list-style-type: none"><li>a. Significant staffing challenges led to the need to privatize case management responsibilities.</li><li>b. A high number of placements not near family, a low number of children reunifying with families, and a high reliance on group homes were the drivers to privatize.</li><li>c. A string of fatalities is what prompted privatization; there was a sense of increased need for accountability and role definition.</li><li>d. A child died in a foster home and the state thought that privatizing would be the solution; this approach was added into a large piece of legislation.</li><li>e. Improvements were needed in child welfare practice with high-need child population; case management contracts were developed specifically for this population.</li><li>f. There was a determination that more foster homes were needed; privatization efforts were designed to engage the communities in recruiting foster homes.</li><li>g. The child welfare system was experiencing long length of stays for a high percentage of children and youth in relative care; the number of children coming</li></ol>

into care was slowing, but the time to permanency was increasing. There system did not appear to have sufficient focus or incentives designed to promote permanency.

- h. There was a desire to achieve cost savings, or privatization was viewed as an appropriate strategy following a crisis.

4) Initial outcomes or goals for privatizing included:

- a. Primary goals were to promote timely permanency and to improve placement stability,
- b. Consistency of practice, and
- c. Increase reunification, decrease reliance on congregate care, and increase permanency.

### **Themes in the Literature**

Common experiences or outcomes from states that have privatized their child welfare services include:

- Improved outcomes for children and families that are consistent with federal and state mandates and the Child and Family Services Review.
- Improved child welfare system with an expanded array of resources; environment that promotes innovation.
- More efficiency in the use of taxpayer resources.
- Greater alignment between programmatic goals and fiscal resources.

## **B. Privatization Models**

### **Themes Raised by the Members of the Expert Panel**

1) Examples of different levels of privatization models experienced by the panelist include:

- a. The state agency had a contract was with a specific provider who agreed to follow the state agency's casework model and policies (e.g., lead agency model).
- b. The state agency provides the monitoring role to the private providers while the private providers provide all case management responsibilities.
- c. The privatization model implemented included having case management responsibilities for various programs and services split between the public and private agencies.

2) The model used by one state (Illinois, Performance Based Contracting) created competition between private providers and the state agency. The competition generated was seen as a positive benefit, however, it is important that there is a process in place to manage the competition in order for all agencies to learn from each other and share successes.

3) Levels of case management responsibility included the following examples:

- a. Private providers had full case management responsibility.

<ul style="list-style-type: none"> <li>b. Responsibilities shifted to a central worker with full case management responsibilities: one family, one worker, one plan.</li> <li>c. Initial case management responsibilities expanded over time to the private providers.</li> <li>d. Foster care place management responsibilities represented the most common shift of responsibility from the public agency to private providers.</li> <li>e. Case management responsibilities were split between the public and private agencies. For example: <ul style="list-style-type: none"> <li>i. The state agency maintained the hotline, dual track (e.g. differential response or alternative response approach), and family centered services;</li> <li>ii. Case management responsibilities for family preservation or intensive in-home services were split between the public and private agency; and</li> <li>iii. In-home foster care services were handled by the public agency except for a small fee-for services contract that existed.</li> </ul> </li> </ul>
<p>4) The roles and responsibilities of case management and details of the model shifted over time as priorities and leadership changed.</p>
<p>5) In all examples shared by the panel, the oversight responsibilities were managed by the state agency.</p> <ul style="list-style-type: none"> <li>a. A specific example of includes a state agency that created the role of Family Team Conference Facilitators to provide oversight which also gave new roles for public agency workers. This role included the addition of safety conferences (prevention), planning conference (service planning), six-month permanency conferences, placement stability conferences, etc. as a means to provide direct oversight to the private providers. Benefits of this role included: <ul style="list-style-type: none"> <li>i. Helped providers feel safer because a private provider could call a conference at any time,</li> <li>ii. The public agency felt that the Family Team Conference provided a level of accountability, and</li> <li>iii. Facilitators were neutral in the process, yet they provided support to the private provider staff.</li> </ul> </li> </ul>
<p>6) Community ownership and buy-in were noted as instrumental to the design of any privatization model.</p> <ul style="list-style-type: none"> <li>a. The inclusion of the private provider sector in creating the solution to help solve the stated problem is important and builds buy-in to the process and change.</li> </ul>
<p>7) It is important to take into consideration the liability that private providers are undertaking with privatization. Consider putting assurances into place, or develop a plan, so that private providers are protected (e.g. insured, protected by Attorney General's office, etc.).</p> <ul style="list-style-type: none"> <li>a. It is important for the public agency to understand the risk that private agencies are undertaking; a shared risk approach should be taken seriously by the public agency.</li> </ul>

### Themes in the Literature

The following are common models (not mutually exclusive) used by states who have privatized their child welfare system:

- Lead Agency Model where the public agency contracts with one or a limited number of agencies within a designated region to provide or purchase all specified services for the target population; single point of accountability.
- Multiple Provider Model where a state agency contracts with multiple providers and contracts can specialize by service.
- Global Budget Transfers where the contractor is paid a flat fee and received a set number of cases from the state agency.
- Case Rates where a provider receives a set rate per child or family served; rate is independent of the level of need.
- Performance Based Contracting where payment is tied to meeting the contractor's performance goals.

## C. Leadership and Political Landscape

### Themes Raised by the Members of the Expert Panel

- 1) It is critical to develop clear communication at all levels of the public agency, private providers, and with stakeholders.
- 2) Engaging leadership in understanding the changes that will occur in the system and the strains that will be unintentionally placed on staff as a result of privatization is important for successful implementation.
- 3) It is important to fully involve leadership and the private providers during the planning, development, and implementation process in order to assure that they are fully engaged and in agreement with the model of privatization.
  - a. In one example shared, private providers were open to creative ways of partnering with the state department which in turn opened the door for further communication and improved partnerships.
- 4) Not all states/jurisdictions represented in the panel had their privatization efforts codified or enacted through legislation. For those that did, the message expressed was to use broad language that will allow for flexibility in order to course correct or make needed adjustments.
- 5) Progress will need to continue through any administrative or leadership change. It was stressed by panelists that this can only be done if there is strong support at all levels of staff and partnerships.

### Themes in the Literature

Highlights of general lessons learned from states implementing privatization on the issues of leadership and political landscape include:

- The need for administrators to build trust, open communication, and strong leadership; understand that transitions are hard; acknowledge that a contractors' ability to perform will be limited by many of the same barriers faced by the previous public system; and plan for inevitable change.
- The need for leadership to take on an active role in providing discussions and opening the dialogue between public and private agencies around privatization.
- Political resistance can be a barrier to privatization efforts; therefore, it is important for state agencies to understand the political landscape and work together towards improved efforts and outcomes.

**D. Provider Capacity and Alignment with State Vision**

<b>Themes Raised by the Members of the Expert Panel</b>
1) A strong, well-functioning contract division at the state level is essential. All parties need to understand in detail the commitments and consequences of their decisions and agreements.
2) Thoughtful program evaluation is an important consideration; it is important to include the workforce in the design and implementation of such an evaluation.
3) One expert suggested that a state begin with monitoring simple outcomes; additional specificity can be incorporated into contracts and outcomes can evolve over time.
4) Any privatization endeavor requires a strong Continuous Quality Improvement (CQI) system and a quality case review process to keep everyone grounded and forward moving.
5) Ensure accountability – it is important for providers and the public agency to talk about and agree on the outcomes and fidelity measures in place; it is a data-driven process, which needs to be understood across all staff.
6) It is important to conduct a readiness assessment of the private providers. Historically, providers tend to usually over-estimate their capacity and readiness to take on this new work. Understanding the readiness for private agencies to take on new roles and responsibilities (infrastructure readiness, case management responsibilities, etc.) is important to success. <ul style="list-style-type: none"> <li>a. One example shared included the public agency initially providing support in an effort to build provider capacity. This process supported the private agencies and assured them that the public agency would take on the initial risk and slowly turn responsibilities over to the private providers.</li> </ul>
<b>Themes in the Literature</b>
Highlights in the literature on provider readiness in anticipation of privatization of child welfare services: <ul style="list-style-type: none"> <li>• Private provider readiness and capacity should be assessed.</li> <li>• Additional resources for start-up and implementation will likely be needed.</li> </ul>

- Privatization efforts should be clearly tied to outcomes the child welfare system seeks to accomplish.

## E. Stakeholder Engagement

### Themes Raised by the Members of the Expert Panel

- 1) It is important to engage multiple stakeholders early in the process. Positive outcomes of early engagement efforts with a broad range of partners include:
  - a. State department staff saw this as an effort to provide private providers with some relief regarding their responsibilities and welcomed the change.
  - b. Stakeholders were able to agree on outcomes early in the process.
  - c. Privatization was seen by stakeholders as an opportunity to bring more voices, ownership, expertise, etc. into the child welfare process.
  - d. It expanded the understanding in the community of what it means for a child to be in foster care and bring more awareness of the needs of these children and families to the community.
  - e. Connecting with and engaging foster parents early in process helped to retain foster families.
- 2) The larger provider agencies and those who have an existing relationship with the state are critical partner needed for success. These agencies understand how to work effectively with foster families, children, and natural parents and should already align with state's vision for case practice.
- 3) Messaging privatization to your stakeholders is key to successful implementation. Some points shared include:
  - a. It is important to understand the core expectations for all stakeholders and then clearly communicate these across all levels, including with front line staff, birth parents, and foster parents.
  - b. Assure all stakeholders are engaged and receive the same, yet specialized message. Giving everyone the opportunity to weigh in on the process will help to reduce any assumptions.
- 4) The judiciary is a critical partner in the success of privatization. Considerations include:
  - a. The change in case management responsibilities means a change in staff. Judges build relationships with staff that may need to be re-built which is particularly important in small regions, counties, or areas.
  - b. Consider looking to align your judicial circuit with your child welfare regions, etc. to promote a smooth transition.
  - c. One-on-one meetings to engage judges are very valuable and necessary in building relationships and ensuring buy-in.
  - d. Consulting with judges around the change and the impact on the court system is complicated so having the court system invited from the start is critical.

- 5) Engagement efforts can lead to private providers working together for better outcomes. Some examples of engagement efforts include:
- a. Steering committees are beneficial to ongoing success; ensure foster parent groups are represented.
    - i. The Illinois Child Welfare Advisory Committee (CWAC) was shared as a successful example.
  - b. Town hall meetings are a good venue to engagement communities.
  - c. Developing “design groups” at the start of the planning process as they can be changed with developing agreed upon outcomes or initial targets; consensus building can happen even before the RFP goes out.
  - d. Holding focus groups, lunches, roundtables, etc. are all effective means to engagement different partners.

### Themes in the Literature

Following are highlights found in the literature related to engaging stakeholders and partners in the development, implementation, or expansion of privatization efforts:

- Broad involvement of stakeholders fostered a better understanding of specific measures and expectations for both public and private agencies.
- Ongoing collaboration is crucial to success. Some examples include:
  - Formalized public/private strategic planning boards and committees.
  - Post-implementation steering committees engaged in joint problem solving.
- Continuous communication is important in partnering with stakeholders.
- High level of trust is needed between public and private agency partners.

## F. Infrastructure Considerations

### Themes Raised by the Members of the Expert Panel

#### Data infrastructure

- 1) Making any connections to the state agency's information system (i.e. SACWIS) for private providers is critical to reduce duplicate data entry efforts. Examples of efforts include:
  - a. A portal was created for provider staff to access SACWIS so they were able to complete the necessary work inside the system without duplicating efforts.
  - b. In order to support data entry for the private providers, specific staff members were assigned to provide oversight, technical assistance, and contract monitoring which supported the data entry aspect of the work.
  - c. Access to case information and past investigations is critical; some states are still figuring this out.

#### Cost Study/Budget

- 2) It is critical in the first cycles of implementation to conduct a cost study. Benefits shared include:

<ul style="list-style-type: none"> <li>a. A cost study built trust that helped alleviate any anxiety, particularly for private providers.</li> <li>b. Conducting a cost study again later in implementation is important to determine if any course corrections or budget amendments are needed</li> </ul>
3) Privatization is not a budget neutral process; significant investments are often needed to build capacity in both public and private child welfare agencies to function successfully within a privatized system, effectively monitor contracts, and promote improvements in quality case practice and outcomes.
4) External fiscal consultants are important to help look at budget and provide support or recommendations.
<b>Themes in the Literature</b>
<ul style="list-style-type: none"> <li>• Integrated case management systems and data are critical in planning and designing the implementation of privatization. Yet, challenges with data entry in a privatized system is a prominent theme in the literature</li> </ul>
<ul style="list-style-type: none"> <li>• Compatible public and private information systems are needed to promote data quality and reduce dual data-entry.</li> </ul>
<ul style="list-style-type: none"> <li>• States have actively tried to facilitate access to the State Automated Child Welfare Information Systems (SACWIS) through collaborative implementation activities and infrastructure enhancements to data systems in both public and private agencies.</li> </ul>

## G. General Considerations or Advice

<b>Themes Raised by the Members of the Expert Panel</b>
1) Consider exploring all of the opportunities within the Family First Prevention Services Act that are available to support efforts; FFPSA gives states a number of new opportunities that are different from prior years.
2) Do not underestimate the investment needed in the workforce. Some points raised include: <ul style="list-style-type: none"> <li>a. If a system can stabilize the workforce, then improved outcomes will likely occur.</li> <li>b. A system with strong accountability and one that is properly resourced will be more successful.</li> </ul>
3) Invest in necessary training for the workforce. Examples shared include: <ul style="list-style-type: none"> <li>a. Core trainings provided by the public agency can be made open to private providers.</li> <li>b. Start with broad categories of training needs and expand as needs arise.</li> <li>c. The state agency can provide or share resources to private providers for “model trainings.”</li> </ul>
4) Clear communication and planning is important to move any privatization effort forward. Examples of what should be involved in a communication plan include:

<ul style="list-style-type: none"> <li>a. Be clear about the goals and change that you want to see occur; be thoughtful and precise about what you want to accomplish.</li> <li>b. Ensure clear communication and understanding at all levels of staff and partnerships.</li> <li>c. Consider developing a marketing plan to accompany any communication.</li> <li>d. Use available data to inform processes and drive the outcomes you hope to impact.</li> <li>e. Be transparent in communication efforts including the planning and implementation efforts.</li> <li>f. Privatization efforts were communicated as additional support to staff, aiming to achieve the same positive outcomes for children and families. This shaped the way the effort was communicated, which always remained positive across all levels of staff and stakeholders.</li> </ul>
<p>5) Incremental change can build success and increase partnerships. Tips shared include:</p> <ul style="list-style-type: none"> <li>a. Begin small in your efforts, possibly looking to begin in a few sites or counties, and phase-in or expand efforts over time. This process will allow you to learn and course correct where needed.</li> <li>b. Spend an entire year building your payment system to ensure a process that will be successful.</li> <li>c. A slow or phased-in process can help work out any issues, understand costs, and understand investment.</li> </ul>
<p>6) Outcomes are important and need to be at the front of your privatization efforts; look to existing data for agencies and states that privatize.</p>
<p>7) It is important to hold each other accountable at a system level; understand agreements between all involved.</p>
<p>8) Understand that no site is fully privatized – this will always be an evolving process with refinements and ongoing changes.</p>
<p>9) Licensing considerations:</p> <ul style="list-style-type: none"> <li>a. Child placing agencies certify foster homes, they do not license.</li> <li>b. Licenses are still through state agency; Private agencies would do all licensing work and submit the package to state licensing office.</li> </ul>
<p>10) Consider not using the term “privatization”; options include foster care case management, foster care re-design, etc.</p> <ul style="list-style-type: none"> <li>a. Discussing privatization may not be the right conversation as the actual term is somewhat of a lightning rod. The point for examining and thinking about the role of the private sector in the public sector may be missed if the wrong terms are used.</li> </ul>
<p>11) There is no “silver bullet” and each state or jurisdiction will need to determine what works best for them within their own system and create this unique model.</p>

12) Structural support is important to consider when developing contracts. 5 year contracts vs. 3 year contracts - may want to consider 3 year contracts at the start moving to longer contracts to ensure sustainability

13) Considerations for developing the RFP process:

- a. Do not be overly prescriptive in your model.
- b. Consider the innovations and the value-add that the provide sector can provide (connections from private foundations that could bring in new programs, practices, etc.).
- c. Evaluate at the highest level.
- d. Consider engaging the private sector in the design of the RFP.
- e. Be transparent in the process; it will improve collaboration and partnerships.
- f. Include provider start-up funds.
- g. The RFP should recognize and acknowledge the full breadth of work and capacity that is needed for a provider to execute the work and new responsibilities.
- h. Private providers addressed training needs in their RFPs, including their desire to include staff in state-led trainings; most providers do their own workforce training which allowed for some flexibility in the training provided.

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