

# CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE

## Minutes

October 15, 2018

### Call to Order and Roll Call

The Child Welfare Oversight and Advisory Committee meeting was held on Monday, October 15, 2018, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative David Meade, Co-Chair, called the meeting to order at 1:06 p.m., and the secretary called the roll.

Present were:

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

Guest Legislators: Representatives Kevin Bratcher, Kim Moser, and Addia Wuchner.

Guests: Susan Robison, Director State Relations, Public Policy, Casey Family Programs; Tara Hagerty, Chief Judge, Jefferson County Family Court; Shannon Moody, Policy Director, Kentucky Youth Advocates; Eric T. Clark, Commissioner, and Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services; Jessica Brown, Assistant Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services; Randall Wallbaum, Intern, Kentucky Youth Advocates; and Dale Suttles, Sunrise Children's Services.

LRC Staff: Ben Payne, Gina Rigsby, and Dana Simmons.

### Approval of Minutes

A motion to approve the September 17, 2018 minutes was made by Senator Westerfield, seconded by Senator Raque Adams, and approved by voice vote.

### Federal Family First Prevention Services Act – A National Level Perspective

Susan Robison, Director State Relations, Public Policy, Casey Family Programs, stated that Casey Family Programs (CFP) is the nation's largest operating foundation focused on safely reducing the need for foster care and building communities of hope for children and families. CFP operates seven field offices serving all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, and has direct agreements with 16

tribes. Its headquarters is located in Seattle Washington and policy staff are also located in Washington DC.

After years of decline, the number of children in foster care has steadily risen in recent years and continues to grow. Data from the 2016 Adoption and Foster Care Analysis Reporting System (AFCARS) indicates 60 percent of children enter foster care due to neglect and 35 percent due to parental substance abuse. All states are struggling with parental substance abuse. Among children who exited foster care, 51 percent were reunited with their families. Children grow up in safe, stable families when timely services are provided at the time of reunification.

Statistics show that 44.1 percent of children who have been in foster care have had a substance abuse or dependence, 48 percent have a high school diploma, 46.9 percent are currently employed, 37.7 percent have been homeless since leaving foster care, 58.3 percent have given birth to or fathered a child, and 68 percent of males and 40.5 percent of females have been arrested since leaving foster care according to the Casey Family Programs Foster Youth Alumni Study. The goal in child welfare should be to ensure the safety, permanency, and well-being of children and their families. The act of removing children from their families and homes creates emotional distress and trauma that should be avoided whenever possible.

The Family First Prevention Services Act (FFPSA) (P.L. 115-123) was passed and signed into law on February 9, 2018 as part of a bipartisan budget act. The FFPSA will allow states and tribes to claim Title IV-E funds for prevention activities as early as October 1, 2019. New funding and reauthorization of existing funds for child welfare programs include prevention funding, court funding, and specific substance abuse prevention grant funds. In the past federal child welfare dollars focused only on the child for foster care. The FFPSA funds allow prevention services for the child, the parent, and the kinship caregiver. New Title IV-E funds allows federal payments for foster care and prevention and permanency.

FFPSA allows states to receive open-ended entitlement (Title IV-E) funding for evidence based prevention services for children at imminent risk of placement in foster care, pregnant and parenting youth in foster care, and parents or kinship caregivers. There is no income test for eligibility. Services are funded for mental health prevention and treatment services provided by a qualified clinician for up to 12 months, substance abuse prevention and treatment services provided by a qualified clinician for up to 12 months, and in-home parent skill-based programs that include parenting skills training, parent education and individual and family counseling for up to 12 months. There is no limit on how many times a child and family can receive prevention services within the 12 months.

New funding for prevention activities requires prevention services and programs to be promising, supported, or well-supported, to qualify for reimbursement. States are

required to submit a prevention and services program plan as part of the state's Title IV-E plan. Reimbursement rates for prevention activities begin October 1, 2019 through September 30, 2026 at 50 percent of the federal financial participation (FFP). Beginning October 1, 2026, the FFP is the state's FMAP (Medicaid) rate. At least 50 percent of the spending in every fiscal year must be for well-supported practices. States that choose to administer a prevention program also may claim Title IV-E reimbursement of 50 percent each for administrative costs and training costs. New federal funds for prevention services are intended to augment, not supplant, state funding for prevention services. The maintenance of effort (MOE) will be set at fiscal year 2014 spending for these same prevention services for candidates for foster care. Some examples of a candidate for foster care are when an adopted child is at risk of entering or re-entering foster care, when a child in a formal or informal kinship placement is at imminent risk of entering or re-entering foster care, when a child is living with his or her parents and is deemed as being at imminent risk of entering foster care, but a relative caregiver could become the guardian if provided prevention services, a young child was deemed a candidate for care and his or her caregiver received services under this bill and later the child was again deemed at imminent risk of entry later in life, and a child living with his or her parents is deemed as being at imminent risk of entering foster care, but can remain safely at home through the provision of prevention services.

The following placement options are already allowed under current Title IV-E and will continue under the FFPSA: facilities for pregnant and parenting youth, supervised independent living for youth 18 years and older, specialized placements for youth who are victims of or at risk of becoming victims of sex trafficking, and foster family homes. Beginning October 1, 2018, Title IV-E foster care maintenance payments can be made on behalf of a child in foster care placed with their parent in a licensed residential family-based treatment facility for up to 12 months. Beginning as early as October 1, 2019, after 2 weeks in care, Title IV-E federal support will be available for foster care maintenance payments for eligible youth placed in a Qualified Residential Treatment Program (QRTP). There are no time limits on how long a child can be placed in a QRTP and receive federal support as long as the placement continues to meet his or her needs as determined by assessment. States have the option to delay this provision until September 29, 2021. However, delays in implementation of these provisions requires a delay in prevention provisions for the same period of time. To support state implementation of this provision, FFPSA provided \$8 million in FY 2018 for grants to states and tribes to support the recruitment and retention of high quality foster families.

Title IV-E support for evidence-based kinship navigator programs is provided at 50 percent beginning October 1, 2018. The HHS will be required to identify model foster parent licensing standards. By April 1, 2019, states have to identify the licensing standards they implement, and reason why a state's standards may differ from the model standards. The FFPSA requires the development of a statewide plan to track and prevent child abuse and neglect fatalities. As of October 1, 2018, states must document in its Title IV-B plan

the steps being taken to track child maltreatment fatalities, including working with other relevant agencies and stakeholders and develop and implement a comprehensive, statewide plan to prevent the fatalities, including engagement of relevant public and private partners. It provides \$5 million in new grants to states to expand the development of the electronic system to expedite the interstate placement across state lines of children in foster care, guardianship, or adoption. The Adoption and Legal Guardianship Incentive Programs will be reauthorized through FY 2022. It delays the phase-in/expansion of the Adoption Assistance delink for children under age 2 whose eligibility is tied to 1996 AFDC income test through June 30, 2024. It reauthorizes Title IV-B programs and services until FY 2021.

The FFY 2019 appropriations bill includes \$20 million in grants for states and tribes to continue to develop, improve and evaluate Kinship Navigator Programs in order to meet the evidence-based standard in the FFPSA. These grants were also included in the FFY 2018 appropriations bill, and the 2018 funds have already been distributed to the 48 states and 8 tribes that have applied. The FFY 2019 appropriations bill includes \$23.2 billion for Administration for Children and Families that funds Head Start, Child Care and Development Block Grant, Social Services Block Grant, Regional Partnership Grants, and Adoption and Guardianship Incentives. On July 9, 2018, HHS released a Program Instruction (PI) outlining how states must implement the new Title IV-E provisions. The PI outlines that states who wish to delay the QRTP provisions for up to two years must notify HHS by November 9, 2018. HHS has since clarified that this certification of intent to delay is non-binding.

In response to a question by Representative Jenkins, Ms. Robison stated that the legislation was very specific about evidence-based programs. The federal Children's Bureau missed the required deadline of October 1, 2018, to release guidance and a list of preapproved programs, and have now contracted with ADT Consulting to develop the list. There is a real shortage of evidence-based child welfare services especially in the well supported category that requires two randomized control studies and 12-month evidence of impact per child. Some states are looking at mental health and substance abuse treatment programs because traditionally there has been a lot more evidence, study, and evaluation programs provided by the healthcare system. It may be possible to meet the well-supported 50 percent with more of these programs that have the research while building the evidence for the child welfare in-home services. Casey Family Programs have reviewed some models for the in-home services that are evidence-based and would provide the information if requested by the committee. Many states have provided input to the Children's Bureau about the need for flexibility, and the verbal commitment from the Children's Bureau is they will provide as much flexibility as possible, but the legislation is very specific.

In response to a question by Representative Bratcher, Ms. Robison stated that it is up to state policy and policymakers to allow a child to stay in foster care, leave, and then come back if more supports are needed or they are not able to get positive outcomes without

extending foster care. Representative Meade stated that a child can recommit to foster care up to the age of 21.

In response to questions by Representative Bechler, Ms. Robison stated that neglect and abuse, which often includes parental substance abuse, is defined differently from state to state based on how it is defined in statute as well as agency policy. She suggested the Cabinet for Health and Family Services provide regional statistics and data that include the reasons a child enters care and trends to help get a better understanding of what is going on in Kentucky. The federal Administration for Children and Families funded a study in 2017 of 200 informants in 20 communities that concluded that there is a connection with parental substance abuse and increase in child welfare cases and showed it was concentrated more in certain communities more than others and the type of substance abuse was different. There was an impact on families and the safety of children with high rates of substance abuse. Rigorously evaluated intensive family preservation services have been around for 20 years that allow a worker to provide help to a very small number of children in a family's home depending on successful substance or mental health treatment by the parent. States are responsible for submitting data and reimbursement claims for children in state custody to the federal government. States have agreed to share data with the Casey Family Programs who analyze the data, issue reports, and provide feedback to states about how a state is doing compared to other states.

In response to a question by Representative Miles, Ms. Robison stated that the funding in the FFPSA is limited to the placement services, so the QRTPs would be for children with significant clinical needs. The FFPSA does not address Job Corps or employment, but it makes some changes to the independent living program that might be related in terms of using John F. Chafee Foster Care Independence Program funding for employment services for children who age out of foster care.

In response to a question by Representative Meade, Ms. Robison stated that she would provide national information on how many children re-enter foster care after being reunited with a parent. The FFPSA funding could be used not only to prevent a child from entering foster care but to prevent a child's re-entry into the foster care system.

In response to questions by Senator Thomas, Ms. Robison stated that when the FFPSA is implemented, states will have to define imminent risk. The opportunity is to use the FFPSA funding for children who are at imminent risk but can stay with the family if provided appropriate services. Home visiting programs have been shown to be effective in preventing child abuse and neglect. Senator Thomas encouraged the Casey Family Programs to look at Kentucky's Health Access Nurturing Development Services (HANDS) program, because it is a model that has proven to be very effective in helping children and families.

## **Federal Family First Prevention Services Act – A State Level Perspective**

Shannon Moody, Policy Director, Kentucky Youth Advocates, stated that to keep children safe, Kentucky needs a child welfare system that can thoroughly investigate suspected abuse. If a child has experienced abuse or neglect, family is truly the best medicine to help those children thrive. Sometimes what a child needs most is for their parents to get help. Family preservation services are short-term and help parents overcome challenges, such as substance abuse, while keeping children safe and healthy within the home. When a child cannot safely remain with their parents, relatives or close family friends can provide a vital, loving safety net. Placing children with adults that already know and care for them can help lessen the trauma of being removed from their homes. When kinship care is not available, well-trained foster parents can provide safe and nurturing family settings. Some foster families adopt, while others care for a child until they return to their parents or until other adoptive parents are found. Kentucky's rate of substantiations of child abuse and neglect is double the rate of the United States. According to the United States Department of Health and Human Services' 2016 Child Maltreatment report, Kentucky has the second highest rate of maltreatment. Substance abuse, family violence, mental health issues, economic insecurity, and lack of knowledge of child development make it even harder for Kentucky families.

The Kentucky Sobriety Treatment and Recovery Team (START) includes addiction services, family preservation, community partnerships, and best practices in child welfare and substance abuse treatment. Kentucky Strengthening Ties and Empowering Parents (KSTEP) is a voluntary in-home services program that is an expansion of in-home services currently offered in the state. KSTEP seeks to enhance provider capacity and family access to in-home services that address the needs of parents of children under 10 years who have identified risk factors of substance abuse. Most children who receive family preservation services can remain safely in their homes. Delayed implementation of the FFPSA will cause Kentucky to miss out on some flexible funding. Family preservation programs evaluated in Kentucky have shown that a savings of \$2.85 in avoided out-of-home care costs for every \$1 spent on family preservation services. The average cost of a program is approximately \$6,000 per family, and the average cost of out-of-home care for a year for a child is approximately \$30,000 based on the \$82.25 daily per diem.

House Bill 1 allowed for the creation of supports for Kinship Care providers, and funding was included in the 2018-2020 biennial budget for a new Kinship Care program. Kentucky currently has the highest rate of children in Kinship Care. Approximately 96,000 Kentucky children are being raised by a relative, of this total, there are almost 15,000 children in Kinship Care due to intervention within a prevention plan by the Department for Community Based Services (DCBS). There are 1,327 children in relative foster care. Utilizing Title IV-E reimbursement for up to 50 percent of expenditures on Kinship Navigator Program would help Kinship Caregivers find and use program and services to meet their needs in order to help successfully help raise the child.

According to 2016 KIDS COURT Data Center, Kentucky has the sixth highest percentage of children in foster care placed in a residential setting among states. Identifying ways to recruit and retain foster parents will help to ensure Kentucky that there are appropriate number of homes for children to prevent them from having to be placed in placements such as a residential treatment facility. No child can remain for more than 2 weeks in a child care institution that is not a qualified residential treatment programs (QRTP), a setting specializing in providing prenatal, post-partum, or parenting supports for youth, a supervised independent living program for youth 18 and older, or a high quality residential care and supportive services program for youth who have been or are at risk of becoming sex trafficking victims.

When the FFPSA was passed, the reauthorization of the Adoption and Legal Guardian Incentive Payment program was extended to 2021. The October 2018 CHFS Foster Care FACTS reports that 2,683 children have a goal of adoption, 5,433 children have a goal of reunification, and 7 children have a goal of emancipation. The average age of entry into foster care is 7 years with an average of 21 months in care. The average cost per day for the 7,855 children with per diem payments is \$82.25. In SFY 2018, 601 youth 18 years of age or older transition out of the child welfare system. These youth become vulnerable to mental health and substance abuse issues and end up being homeless or unemployed. The Fostering Success program helps create opportunities for work and mentorship for these youth. Kentucky can also extend foster care services up to the age of 23 years for these youth. The FFPSA extends supports and services to former foster care youth under the John F. Chafee Foster Care Independence Program from age 21 to age 23, extends Education and Training vouchers from age 23 to age 26, and HHS must submit a report on the National Youth in Transition Database (NYTD) tracking outcomes of youth who exited care by October 1, 2019.

Tara Hagerty, Chief Judge, Jefferson County Family Court, stated that she is one of ten family court judges in Jefferson who hear dependency, neglect, and abuse, paternity, domestic violence, and divorce and custody cases. Cases can involve mental health issues, domestic violence, medical, environment, and education neglect, and severe abuse. Judges try to focus on the issue of safety when deciding whether to remove a child from a home. Most child and adult mental health providers do a trauma inventory when care begins that includes how many traumatic events a person has experienced whether firsthand experience or witnessing an event. Being removed from a home is considered a traumatic event when someone is being assessed. The more traumatic events someone experiences, the less likely someone is to succeed in life educationally, professionally, emotionally, and personally. Children are removed from a home only when it is necessary due to safety. Most cases seen in court now overwhelmingly involve substance abuse.

The National Council of Jewish Women, CHFS, the Casey Family Foundation, and Kentucky Youth Advocates is partnering with Jefferson County to start a new pilot evidence-based program in Jefferson County with a Recovery Court to deal with substance

abuse under the dependency docket. Currently it is funded solely with private funds raised by the National Council of Jewish Women. The Council wants to expand the program to Northern and Eastern Kentucky based on needs in these areas of the state. Some of the wraparound services include substance abuse treatment, mental health treatment, vocational training once someone reaches sobriety, and some housing assistance. Centerstone as well as other treatment providers in Louisville to provide support groups for children and parents. Specific social workers from CHFS will be designated to work with these families. Volunteers of America allows children to live with families who are dealing with substance abuse.

A lot of parents do not know the basics of raising a child, preparing a budget, housekeeping, or recognizing medical emergencies. In-home services are crucial to children remaining in the home safely. In-home assessments are more relative, valid, and helpful when observing strengths and weaknesses of parents and determining what services are needed. Some family members are willing to take care of a child, but often are financially unable to provide the necessary care. Interstate Compact on the Placement of Children (ICPC) assessment takes approximately 6 months, and without the ICPC, services from Kentucky do not follow a child. Fictive kin placement is very helpful when placing a child in a home with people they already know.

In response to questions by Senator Thomas, Ms. Moody stated that an 18-year old youth who transitions out of foster care has 12 months to come back and receive services from the cabinet until the age of 21. If a child is in foster care or out-of-home care at the age of 14, the cabinet starts preparing them with independent living skills until the age of 18. Judge Hagerty stated that children in foster care or out-of-home care have a guardian ad litem appointed to look out for the best interest of the child. If a child is committed to the cabinet, an annual review is conducted where the child comes to court with the guardian ad litem and caseworker to review the child's plan. The cabinet does an exit plan with the 18 year old to determine what is best for them.

In response to questions by Representative Moser, Judge Hagerty stated that the Kentucky statute has been changed to more specifically define de facto custodians and give them more leverage. If a grandparent is granted custody, they can make decisions about visitation based on what is in the best interest of the child. If a child goes through the dependency, neglect, and abuse system, the courts have strict guidelines about what is in the best interest of the child. If a child has been with a relative caregiver for six months, the courts start looking at permanent custody rather than leaving it as temporary custody.

Jessica Brown, Assistant Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that the START program began in Kentucky in 2007, and the barriers have been funding and service provisions in rural versus urban areas. Each dyad within the START program has a social worker and a family mentor. The family mentor is someone who has gone



through the child welfare system and as well as someone who is in recovery. The program funds the position and the family mentor is located within DCBS with the social worker to help work with families.

In response to questions by Representative Miles, Ms. Moody stated that at the peak of the Kinship Care Program there were 11,500 children, and the latest number available from October 2017 was 5,140 children. Eric Clark, Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, stated that the budgeted \$1.8 million in this fiscal year and \$3.3 million in next fiscal year were provided for the Kinship Care program. Relative placement supports were designed predominately for the DO vs Glisson cases. The U.S. Court of Appeals denied the cabinet's appeal in January 2017 and the U.S. Supreme Court denied the appeal in October 2017. The funds for the Kinship Care Program as well as the relative placement supports is being utilized to fund the DO vs Glisson case. Kentucky is seeking approval of Title IV-E funds to help pay for these cases because it was under IV-E law. Deputy Commissioner Caywood stated that in September 2018, \$1.5 million was paid for benefits for the DO vs Glisson cases, and if this trend continues, the state could experience an \$18 million fiscal impact. The number of benefit payments and the funding amount broken down by county will be provided to the committee. The cabinet is trying to provide a more robust service array for relative caregivers. The cabinet currently offers cash assistance under the Kentucky Transitional Assistance Program (KTAP), childcare assistance, and Medicaid for children. The department also has access to Kinship Navigator funding under the FFPSA.

In response to questions by Representative Meade, Deputy Commissioner Caywood stated that the \$18 million will be paid strictly for benefits nothing to defend the case. The funds will be used for fictive caregiver placement that was approved by DCBS that included a home evaluation or home study and background check and sometime during the child's removal, the cabinet had custody of the child. Funds will not be used when permanent custody was not established using the AOC-DNA 9 Permanent Custody form. Approximately 1,800 children have been approved under the DO vs Glisson ruling with 68 payments issued as of the end of September 2018. It does not include 1,100 children in relative fictive kin placements and in the state's custody right now showing up on the Foster Care FACTS sheets.

In response to a question by Representative Bratcher, Deputy Commissioner Caywood stated that she would get the information to the committee of the number of for-profit foster care providers.

There being no further business, the meeting was adjourned at 2:59 p.m.