

# **CHILD WELFARE OVERSIGHT AND ADVISORY COMMITTEE**

## **Minutes**

**August 19, 2019**

### **Call to Order and Roll Call**

The Child Welfare Oversight and Advisory Committee meeting was held on Monday, August 19, 2019, at 10:00 AM, in Room 129 of the Capitol Annex. Senator Tom Buford, Chair, called the meeting to order, and the secretary called the roll.

Present were:

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

Guests: Kelly Stephens, Governmental Affairs Liaison, Kentucky Administrative Office of the Courts; Deloris Smith, Regional Supervisor, Department for Family and Juvenile Services, Administrative Office of the Courts; Cletus Poat, State Board Vice Chair, Citizens Foster Care Review Board; Elizabeth Caywood, Deputy Commissioner, Laura Begin, Legislative Liaison, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services; Christa Bell, Division Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services; and Liz McKune, Vice President Health Integration, Passport Health Plan.

LRC Staff: Ben Payne, Lead Staff, Dana Simmons, and Becky Lancaster.

### **Approval of Minutes**

A motion to approve the minutes of the July 8, 2019 meeting was made by Representative Meade, seconded by Senator Westerfield, and approved by voice vote.

### **Child Welfare Court Case Process and Procedure Update**

Kelly Stephens, Governmental Affairs Liaison, Kentucky Administrative Office of the Courts (AOC), stated that education on the changes that came about from 2018 Regular Session House Bill 1 (HB 1) is a main focus. The AOC provided webinars for judges, attorneys, and the employees of Cabinet for Health and Family Services (CHFS). The AOC education effort included staff of judicial colleges with sessions for circuit, family and district court judges, a family law conference for family court judges and staff, along with Guardian ad Litem and Court Appointed Counsel training curriculum. The Kentucky Bar Association (KBA) included HB 1 curriculum in the Kentucky law updates around the state. The HB 1 procedure changes included family court rules, court forms, and appellate

court rules to expedite briefing and scheduling for involuntary termination of parental rights (TPR) cases.

The performance improvements from HB 1 consist of case management enhancements to data collection and quality, refining new reports for judges that will assist with caseload management and tracking, and pilot programs to update processes. Judicial data reports are delivered monthly to judges with pending dependence, neglect, or abuse (DNA) and adoption cases listed. The reports show past and future events and aid in the ability to track and manage cases. The Court of Appeals' has begun a pilot project for scanning all the files necessary to TPR cases. In Kentucky, there was an increase in the number of child DNA cases filed from 2015 to 2018. For 2019, the number of child DNA cases filed is trending downward.

Cletus Poat, State Board Vice Chair, Citizens Foster Care Review Board (CFCRB), stated that the CFCRB action areas consist of training, community forums, and recommendations that lead to suggested changes in laws and processes. Themes from the community forums were frustrations with the lack of communication, training, agency processes, court processes, available services, and accessible supports. Children, parents, and caregivers involved with foster care need timely, complete, and accurate information about agency and court processes. Foster children, parents, and caregivers also need help with facilitating communication between each other for better support and information. Foster parents reported a lack of information about available services, education, court dates, visitation schedules, and strategies to help the child.

Mr. Poat stated that foster parents have requested more communication and specific training on the court process, utilizing monetary resources, and accessible support. The court appointed special advocate (CASA) volunteers requested specialized training for medically fragile children. Youth placed in foster care are frustrated when placed outside their home counties and into different schools. If abuse allegations are unsubstantiated, children should be returned to relatives as soon as possible. The lack of family courts in each county continues to be an issue. The forums provided information on agency and court process concerns. Workers are troubled because out-of-state placements, TPR cases, and adoptions take too long to be processed. He stated there should be more reunification services for parents who are incarcerated for a short-term. Other needed services and supports include transportation services, interpreter services, financial support, and counseling for children.

The CFCRB legislative recommendations derived from the community forum information are that there should be statewide expansion of family courts to each judicial circuit, an increase in funding to the Department for Community Based Services (DCBS), and to amend KRS 620.190(e) to allow non-DCBS employees of CHFS to serve on local review boards.

In response to questions and comments from Representative Bechler, Mr. Poat stated that the charter of the CFCRB is to review all cases of children placed in out of home care every six months and submit the findings to the judge for review. There are forms that are filled out but the people involved in the case are also allowed to informally testify at the interested party reviews (IPR). He stated that typically children do not attend the IPR, but they are allowed to be in the room and testify on their own behalf. Deloris Smith, Regional Supervisor, Department for Family and Juvenile Services, Administrative Office of the Courts, stated that the names and addresses of people that are invited to the IPR is provided by CHFS. In each case every child is invited to attend the IPR and has the right to participate due to the requirements of KRS 620.190(e). Sometimes children placed in congregate care, along with their therapist, participate in the IPR over the phone. She stated that she had not heard that the CFCRB does not believe the children at the IPR but rather that the parties participating in the IPR empower the children to speak. There are a very small number of cases that require an interpreter at an IPR.

In response to questions and comments from Representative Meade, Mr. Poat stated that the CFCRB does communicate with foster parents regarding resources available to them. However, the focus of the review board is the child. The CFCRB will ask questions and request a status update on the child from the interested parties in attendance. The CFCRB could recommend classes or counseling in accordance with the case plan for the biological parents. Ms. Stephens stated that the AOC has addressed the family court rules of practice with the Guardian ad Litem that include communication with the client.

In response to a question from Senator Buford, Ms. Stephens stated that an employee of DCBS attends every IPR and every community forum.

In response to questions and comments from Senator Thomas, Christa Bell, Division Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that in an investigation it is CHFS' policy to remove all children from the home even if they are not the alleged victim of the abuse or neglect. However, other children in an investigated home should be interviewed and questioned about the circumstances in the home from which they were removed. Ms. Bell does not know of any reason as to why a child would not be allowed to testify in court but it would be the decision of the judge in the case.

### **Analysis of the First Year Implementation of 2018 Regular Session House Bill 1 and New 2019 Legislative Child Welfare Implementations**

Elizabeth Caywood, Deputy Commissioner, Department for Community Based Services, Cabinet for Health and Family Services, stated that the HB 1 was landmark child legislation that established the Child Welfare Oversight and Advisory Committee. HB 1 focused on foster care adoptions, prioritized keeping children close to their communities, required consistency within public and private foster homes, and focused on services for relatives and fictive kin caregivers. With the addition of appropriations in the 2018 Regular

Session House Bill 200 (HB 200), DCBS was charged with formulating a formal management structure to focus on the child welfare continuum in Kentucky. She stated that Commissioner Eric Clark has presented three goals to safely reduce the number of children entering foster care, to improve the timeliness to appropriate permanency, and to reduce caseloads.

Christa Bell, Division Director, Division of Protection and Permanency, Department for Community Based Services, Cabinet for Health and Family Services, stated that the DCBS implementation of HB 1 required uniform home studies. HB 1 authorized CHFS to establish monetary provisions, guardianship assistance program, and other services for relative and fictive kin caregivers. The implementation of HB 1 streamlined and added policies for the involved parties of foster care. In HB 1 there were changes to the diligent recruitment standards. DCBS has launched the Kentucky Faces Portal which is a resource and a recruitment tool for potential foster and adoptive parents. From August 2014 to August 2019 the number of foster homes in Kentucky has risen from 4,372 to 5,455.

Ms. Bell stated that with the implementation of HB 1 there have been significant changes to expedite the adoption process including the creation of a putative father registry. HB 1 ensured that sibling connections will be maintained and removed the maximum number of children that can be placed in an adoptive home. DCBS has implemented a new requirement of the Family First Prevention Services Act at the federal level which is the implementation of the National Electronic Interstate Compact Enterprise (NEICE). NEICE will help to expedite out of state placements because forms and documents can be submitted electronically. In the state fiscal year (SFY) 2019 there have been 1,257 finalized adoptions.

In response to questions and comments from Senator Westerfield, Ms. Caywood stated that 228 additional adoptions in SFY 2019 is a significant increase. Ms. Bell stated that DCBS can send updated charts that have a zero baseline and will present as such in the future.

Ms. Bell stated that the average number of child protective services (CPS) cases that a worker would be responsible for in SFY 2019 would be 30 cases which includes CPS not at full staff capacity along with past due cases. In SFY 2019, the average number of months to permanency through reunifications is 9.4 months. The average number of months to permanency through adoption for SFY 2019 is 37.5 adoptions. The state is working with child specific recruiters modeled after the Wendy's Wonderful Kids Program through the Dave Thomas Foundation. There are other ongoing efforts to reduce the total number of months that a child is in foster care. However, the number of children in the custody of or are committed to CHFS has continued to rise from September 2014 to August 2019. CHFS continues to advance prevention services to keep children from being placed in out-of-home care.

Laura Begin, Legislative Liaison, Regulation Coordinator, Department for Community Based Services, Cabinet for Health and Family Services, stated that along with HB 1, HB 200 included additional funds to DCBS that has been used for foster care and adoption supports, raises given to social workers and supervisors, and expanded services to relatives and fictive kin. The 2019 Regular Session House Bill 2 focused on relative and fictive kin caregivers. The 2019 Regular Session House Bill 158 required fingerprint based background checks for childcare facilities, created the Foster Youth Bill of Rights, and reduced the time for involuntary TPR cases to become final. The 2019 Regular Session House Bill 446 required a list of relatives or fictive kin when the child is removed from the home, gave foster parents standing as a party in a voluntary TPR case, and made foster parent licensure effective for a minimum of three years.

In response to comments and questions from Senator Buford, Ms. Bell stated that the Division of Protection and Permanency is making calls to each region to identify the barriers and solution to advance adoptions. She anticipates improvements with those barriers and the results to be noticeable by the end of SFY 2020. Ms. Caywood stated that in a previous comparison of states, Kentucky was average in the number of months to adoption but did very well with the placement of older youth that had in care for a longer period. DCBS is working with the AOC regarding the hearing process prior to receiving formal data on HB 1.

In response to questions and comments from Senator Westerfield, Ms. Caywood stated that the caseload for CPS workers varies by county and region. The information in the presentation is the average for all CPS workers across the state. Staff retention is the largest hurdle in the caseload status for CPS workers. DCBS hopes to get to the federal standard that would reduce Kentucky's average number of months to adoption by 10 months.

In response to questions and comments from Representative Meade, Ms. Caywood stated that there are circumstances that allow DCBS to file for TPR sooner than later however, DCBS must recognize the parental rights.

In response to questions and comments from Representative Hatton, Ms. Caywood stated that the majority of children served are in their home of origin or reunified with their home of origin. She stated that foster care and adoption are not the only solutions to child welfare. Preventative measures should be taken before steps are taken towards foster care and adoption.

In response to questions and comments from Representative Jenkins, Ms. Caywood stated that DCBS can provide data on the outcomes of reunification and the safety of the children after reunification. DCBS has expanded the family preservation and reunification

services. The Family First Prevention Services Act funding from the federal government will be incremental and allow DCBS to provide more services within the home.

In response to questions and comments from Representative Meade, Ms. Bell stated that the average number of months to permanency by reunifications is related to the child's current episode in care. The numbers do not take into account multiple removals. DCBS can provide information regarding the total number of months a child is in foster care along with the number the removals. In regards to the average CPS caseload, a family, regardless of the number of children, is considered to be one case. DCBS anticipates that the Family First Prevention Services Act funding will bring the out-of-home care caseloads down and increase the number of in-home cases. The administrative regulations regarding the three year foster parent recertification have been filed and are projected to go into effect in September 2019.

In response to questions and comments from Senator Westerfield, Ms. Bell stated there is a long list of reasons as to why the months to permanency through adoptions are numerous. One barrier to adoptions is that there are not family courts in every county. In some rural counties, family court is only held once per month. DCBS works hard to reduce what the workers have to complete that become workload barriers. The barriers vary in need by region. DCBS has requested approval for the school authority to require background checks but the Federal Bureau of Investigation (FBI) has denied the request because the term staff member was not defined in the legislation. Ms. Caywood stated that the fingerprinting machine in First Lady Glenna Bevin's website video is for private child placement agencies to fingerprint foster or adoptive parents that is different from the House Bill 158 issue with fingerprinting. Child placing agencies are using CHFS statutory authority to conduct those fingerprint-based background checks.

In response to questions and comments from Representative Bechler, Ms. Caywood stated that in regards to the months to permanency through adoption, the timeframe starts when a child enters foster care. When a child returns home DCBS continues to monitor the child for a period of time, typically up to six months, before the case is closed. There are cases of relatives or fictive kin that petition the court for the custody of a child with CHFS not having any involvement in the preceding and the court awarding custody. If there are allegations of abuse or neglect typically the family court will report those allegations to CHFS for possible investigation. Custody could be given to the family or fictive kin by the courts before the CHFS investigation is complete. Ms. Stephens stated that the AOC can attempt to get the number of cases where the custody of a child is given to a relative or fictive kin and CHFS is not notified. The tracking system used by AOC may not be able to analyze such data on a higher statistical level. Ms. Caywood stated that there are limited monetary supports available to relative caregivers who receive custody directly through the courts.

Ms. Begin stated that the Family First Prevention Services Act allows funds to be spent on providing preventive services to families instead of only paying for foster care services. Kentucky is the only state in the southeast region to be an early implementer of Family First preventative services.

**Adjournment**

There being no further business, the meeting was adjourned at 11:49 AM.