

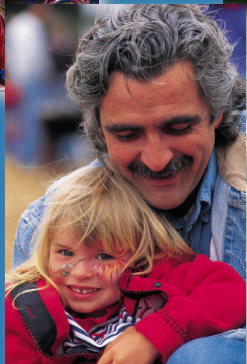


NATIONAL CONFERENCE
of STATE LEGISLATURES

The Forum for America's Ideas



Legislative Strategies to Safely Reduce the Number of Children in Foster Care



LEGISLATIVE STRATEGIES TO
SAFELY REDUCE
THE NUMBER OF CHILDREN IN
FOSTER CARE

By Madelyn Freundlich



NATIONAL CONFERENCE
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Executive Summary

Currently, close to 500,000 children are in foster care. The number of children in care can be safely reduced by implementing a variety of prevention, permanency planning and family support strategies. State lawmakers can play a critical role by leading efforts to safely reduce the foster care population and by fostering the collaborations that are needed to achieve this goal. This report outlines ways state legislation can promote safe reduction of the population of children in foster care and ensure that children have the permanent families they need and deserve. It draws on the creative work being undertaken by state lawmakers across the country.

Federal law provides a framework for developing policies, strategies and practices at the state level. The recently enacted Fostering Connections to Success and Increasing Adoptions Act of 2008 provides new opportunities to effectively and safely reduce the number of children in foster care. State lawmakers can draw on these opportunities and on evidence-based and promising practices in child welfare that have been shown to effectively meet the safety, permanency and well-being needs of children and youth and their families.

State lawmakers can affect the number of children in foster care with positive results for children, youth and families by focusing on three areas:

- Preventing out-of-home placement, including re-entry into foster care;
- Reducing children's length of stay in foster care; and
- Reducing disproportionality and disparate outcomes for children of color in foster care.

State Legislation: Preventing Out-of-Home Placement

A key strategy in safely reducing the number of children in foster care is preventing children's entry into care whenever possible. A growing body of research documents the effectiveness of certain strategies to keep children safe within their own families—strategies upon which some state lawmakers have focused. Evidence-based programs that support and strengthen parents include the Nurse Family Partnership, The Incredible Years, and the Triple P Positive Parenting Program.

Other approaches supported by evidence are providing residential substance abuse treatment services for mothers and their children; using family team approaches that actively

engage families in planning to achieve safety for their children; and using differential response approaches in which child protective services bases its response to accepted reports of child and neglect based on such factors as the type and severity of the alleged maltreatment, the number and sources of previous reports, and the willingness of the family to participate in services.

Lawmakers in a number of states have legislated use of these approaches. Some state lawmakers also have addressed the need to support families after children leave foster care. One promising practice is legislation that promotes the child's ongoing healthy family connections after adoption. State lawmakers have implemented other strategies, including services to families and to children after children return home from foster care and extending adoption and guardianship subsidies for children beyond age 18.

State Legislation: Reducing Length of Stay in Foster Care

Safely reducing the number of children in foster care requires decreasing the time children remain in care. State lawmakers have developed a range of strategies designed to reduce the time children remain in foster care. One set of strategies focuses on strengthening the courts that hear child welfare cases.

One evidence-based practice some state legislators have implemented is family treatment drug courts that provide parents with support to remain clean and sober, resist further criminal activity, become self-sufficient, become accountable for the well-being of their children, and develop adequate parenting and coping skills. Another evidence-supported practice is improving legal representation for children and families by providing training and support for legal advocates, a practice some state lawmakers have required. State lawmakers also have enacted legislation to reduce court delays in child welfare proceedings and require youth participation in their court hearings.

Children spend less time in foster care when child welfare agencies use sound planning practices designed to meet each child's permanency goal: reunification, adoption, guardianship, living permanently with a relative or, when appropriate, "another planned permanent living arrangement."

Some state lawmakers have required use of evidence-based practices such as family involvement in decision making, consistent and frequent visiting between parents and their children in foster care, and providing services and supports for relatives to provide care for children who must enter foster care and to be their permanent guardians. State lawmakers also have directed public child welfare agencies to engage in promising practices such as intensive family search activities. Lawmakers in a number of states have required implementation of promising practices in adoption, including child-specific and targeted adoptive family recruitment, pre-placement services for children in foster care and their prospective adoptive families, and post-placement services.

State Legislation: Reducing Racial/Ethnic Disproportionality and Disparate Outcomes for Children of Color in Foster Care

Children of color, particularly African-American and Native American children, are more likely to enter foster care and are more likely to remain in care for longer periods of time than white children. Once they enter foster care, they are less likely to have permanent families through reunification or adoption. Some state lawmakers have focused on the disproportionate representation of children of color in foster care and the disparate outcomes for these children. Michigan lawmakers required the public child welfare agency to study the disproportionate representation of African-American and other children of color in the state's child welfare and juvenile justice systems. The resulting report provided a framework that the state is using to address disproportionality in both systems. Texas lawmakers directed the public child welfare agency to determine whether child protective service interventions were disproportionately begun against any racial or ethnic group. The study—which documented disproportionality—has provided the basis for a remediation plan. Washington lawmakers required the public child welfare agency to analyze and make recommendations on racial disparity in the child welfare and juvenile justice systems. Racial disparities were discovered for African-American, Latino and American Indian children, leading to specific programs, practices and strategies to correct these disparities.

Other State Legislative Approaches

Safely reducing the number of children in foster care requires a well-functioning child welfare system with a strong infrastructure, adequate resources and accountability. State lawmakers have crafted approaches to strengthening the child welfare system by focusing on the child welfare workforce (including training, hiring and retention efforts and evaluation processes that reward quality work); authorizing funding for child welfare services and supports through innovative financing strategies; requiring reinvestment of savings from safe reductions in the foster care population into preventive and intervention services; requiring use of performance-based contracts between public and private child welfare agencies; and creating multidisciplinary commissions and oversight or advisory boards.

Conclusion

State lawmakers play vital roles in safely reducing the number of children in foster care in. Lawmakers nationwide have enacted legislation to achieve this critical goal and improve results for children, youth and families. They have fostered the collaboration necessary to implement new practices and programs; assess outcomes; strengthen the courts and the child welfare system; and engage the community in achieving safety, permanency and well-being for vulnerable children and youth. State lawmakers will benefit from the thoughts and creativity of their colleagues as they continue their endeavors to safely reduce the number of children in foster care.

1. Introduction

Current data tell us that 463,000 children are in foster care in the United States.¹ Some of these children entered foster care because their parents and extended family could not provide them with safety and protection; many, however, would not have become “foster children” if services and supports had been available to their families. Some children leave foster care to return to their parents or extended family; many children, however, remain in foster care for extended periods of time, waiting for a safe return home or new families through adoption or guardianship. Other children who leave foster care return to care as a result of subsequent abuse or neglect. Studies tell us the longer children remain in foster care, the poorer the outlook for their health and well-being.² They experience physical, mental health and developmental challenges at significantly higher rates than the general population of children,³ the longer they remain in foster care, the longer they are likely to continue waiting for a permanent family.⁴

Many children who are in foster care do not need to be there. Their entry into foster care could have been prevented by providing their families with services and supports; services could have expedited their leaving foster care to permanent families much sooner; and supports could have kept them safely with their families so they did not return to foster care. Each child deserves a permanent loving family. The government can provide temporary care and protection for children, but it is clear that the government cannot be the parent each child needs.

State lawmakers play a critical role in leading efforts to safely reduce the foster care population and in fostering the collaborations necessary to achieve this goal. This report outlines some ways legislators can work to safely decrease the population of children in foster care in their states and to ensure that children have the permanent families they need and deserve.

Background

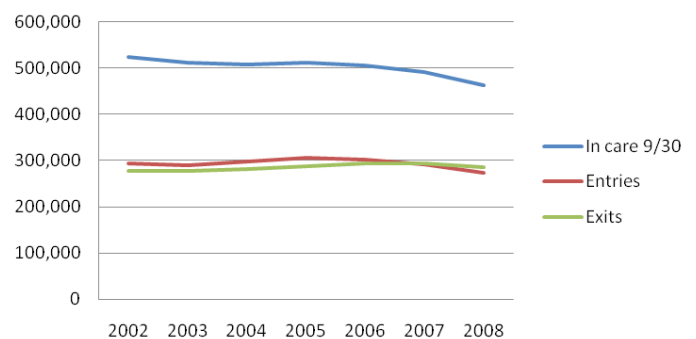
Safely reducing the number of children in foster care is set within the context of both change and lack of change in state foster care systems. Nationally, the number of children in foster care on September 30 of each year declined from 523,000 in 2002 to 463,000 in 2008 (11.3 percent) (Figure 1).⁵ This decrease is largely due to a 7.4 percent reduction in the number of children entering care, most of which occurred in federal fiscal year (FFY) 2008. A 2.4 percent increase in exits from care also contributed to the overall reduction.

A decrease in entries means that states and counties are succeeding in keeping children safe at home who otherwise would have entered care and been quickly reunified with their families. As a result, the children who remain in care are experiencing greater challenges to achievement of permanency and tend to stay in care longer. This, in turn, means that the number of exits from care will likely decline. This trend is already evident. The number of exits from care decreased from 293,000 of FFY 2007 to 285,000 in FFY 2008.⁶

The median length of stay of children in foster care declined from 20.5 months in 1998 to 15.8 months in FY 2008.⁷ Despite this decrease in the median length of stay, however, many children in foster care remain in care for extended periods of time. In FY 2008, close to one-quarter (24 percent) of children in foster care had been in care for three years or more (107,472 children).⁸

In FY 2008, it is estimated that 273,000 children entered foster care nationally.⁹ More than half of these children (53 percent) entered care because of neglect or inadequate housing. Although housing, financial support, and access to health care can be effectively addressed so that children can be kept safely with their families and are not required to enter foster care, a growing percentage of children are entering foster care each year because of neglect and housing problems (Table 1).

Figure 1. Foster Care Entries and Exits



Source: Trends in Foster Care and Adoption – FY 2002-FY 2008, US Department of Health and Human Services, Administration for Children, Youth and Families, Children’s Bureau.

Table 1. Children Entering Foster Care as a Result of Neglect/Inadequate Housing: Selected Years

Fiscal Year	Number of Children Entering Care Neglect/Inadequate Housing	Percentage of Children Entering Care Neglect/Inadequate Housing
FY 1998	102,834	40%
FY 2000	130,285	45
FY 2004	153,752	52
FY 2008	161,062	53

Source: National Data Archive on Child Abuse and Neglect, Cornell University.

Many children in foster care continue to wait for permanent families. In FY 2008:

- Forty-nine percent (226,867) of children who were in foster care had as case goals returning to their parents or primary caregivers.
- About 17,000 children were waiting to leave foster care to live with relatives or guardian.
- Approximately 111,000 children were waiting for adoptive families.

More than 29,000 youth were simply waiting to “age out” foster care without a permanent family of their own.¹⁰ Because services and supports often are not available to families after children return home, some children return to foster care. Recent national data from the U.S. Department of Health and Human Services show that, for children who leave foster care to be reunited with their families, about 15 percent return to foster care.

In the states reviewed in the first round of Child and Family Service Reviews, between 1.6 percent and 29.8 percent of children went back to foster care within 12 months of returning to their parents’ homes.¹¹

The Federal Framework: Selected Federal Child Welfare Law

Federal laws provide a framework for developing state policies, strategies and practices that can lead to safe reductions in the number of children in foster care. These federal laws include the following.

The Indian Child Welfare Act of 1978 (ICWA).

Designed to protect the interests of American Indian children, families and tribes. Among its provisions, ICWA:

- Recognized tribal jurisdiction over American Indian and Alaska Native (AI/AN) children who reside or domiciled on reservations;

- Established higher evidentiary standards for removing AI/AN children from their families and for termination of the rights of their parents; and
- Established a hierarchy for decisions regarding foster care and adoption placements, giving preference to AI/AN families.

The Adoption Assistance and Child Welfare Act of 1980 (PL 96-272).

Established Title IV-E of the Social Security Act, incorporating the former Aid to Families with Dependent Children Foster Care program and establishing a new federally funded adoption assistance program. Among its provisions, PL 96-272:

- Emphasized permanency planning for children in foster care;
- Required states to have a case plan for each child under state care and to make the plan available to the parents; and
- Required states to make reasonable efforts to prevent a child from entering foster care and to reunite the child and parents when a child must enter foster care.

The Adoption and Safe Families Act of 1997 (ASFA).

Established unequivocal national goals for children in foster care: safety, permanency and well-being. Among its provisions, ASFA:

- Reaffirmed the need for a collaborative approach to providing services for children and families;
- Clarified the importance of removing barriers to moving children waiting in foster care to permanent families;
- Shortened judicial time frames and the time frames for initiating termination of parental rights proceedings; and
- Clarified reasonable efforts requirements to avoid foster care placement.

The Fostering Connections to Success and Increasing Adoptions Act of 2008.

Designed to achieve greater permanence and improve the well-being of children served by public child welfare agencies, particularly children in foster care, those who leave foster care in their late teens, and American Indian/Alaskan Native children. Among its provisions, the law:

- Permitted states to claim an open-ended federal reimbursement for a part of eligible state costs related to providing kinship guardianship assistance;
- Authorized direct tribal access to open-ended federal reimbursement for the costs of operating a foster care, adoption assistance, and kinship guardianship program on behalf of children under tribal authority; and
- Expanded federal support for adoption assistance by de-linking, over time, eligibility for that program from income and other criteria that were a part of the Aid to Families with Dependent Children program.

State Legislation Designed to Safely Reduce the Number of Children in Foster Care

State lawmakers play vital roles as leaders in safely reducing the number of children in foster care. Legislators can affect the population of children in care—with resulting positive results for children, youth and families—through a focus on three key areas:

- Preventing out-of-home placement, including re-entry into foster care;
- Reducing children’s length of stay in foster care; and
- Reducing disproportionality and disparate results for children of color in foster care.

Legislative strategies can respond to some of the key challenges that states face in safely reducing the number of children in foster care (see text box). State lawmakers can craft innovative, promising approaches to keep children safely with their own families, reunify children in foster care with their parents, and ensure that children who cannot be reunified have permanent families through adoption or guardianship. State lawmakers also play vital roles in fostering collaborations that are key to achieving these goals.

Implementing Evidence-Based and Promising Practices

In recent years, public policy decision makers throughout the United States have expressed interest in adopting evidence-based programs in a wide array of public policy areas, including services to prevent children from entering and remaining in the child welfare system. The Institute of Medicine defines “evidence-based practice” as a combination of three factors: best research evidence, best clinical experience, and consistent with patient values.¹² Recognizing that these factors also are relevant for child welfare, the California Evidence-Based Clearinghouse for Child Welfare adopted the Institute of Medicine’s definition with a slight variation that incorporates child welfare language: best research evidence; best clinical experience; and consistent with family/client values.¹³

The California Evidence-Based Clearinghouse for Child Welfare uses a rigorous evaluation process to determine whether a practice is well-supported by research, supported by research, a promising practice, or cannot be rated.¹⁴ The Washington State Institute for Public Policy identified effective evidence-based programs in three areas: prevention

The First Round of the Child and Family Service Reviews: Challenges in Reducing the Number of Children in Foster Care

- Insufficient services to ensure permanency for children;
- Inadequate reunification services- family engagement, individualized assessments and case planning, and appropriate and targeted services;
- Inadequate implementation of concurrent planning (simultaneously planning for adoption or legal guardianship while pursuing reunification with the birth family);
- Difficulties with timely completion of adoption home studies;
- Inadequate supports for kinship care and legal guardianship;
- Delayed court hearings; and
- Multiple moves for children while in foster care.



Source: National Conference of State Legislatures, *Moving Children Out of Foster Care: The Legislative Role in Finding Permanent Homes for Children*, 2008.

programs that serve families not involved with the child welfare system; intervention programs that serve families who are involved with the child welfare system; and administrative policies that are implemented on a larger scale, such as the state level.¹⁵

Public child welfare administrators in a recent survey conducted by the American Public Human Services Association rated practices and programs they believed were most successful in safely reducing the foster care population.¹⁶ Because these efforts used different methodologies to determine whether a practice was evidence-based, promising, or still open for determination, they yield different results.

Some cities, counties and states have safely reduced their foster care populations by implementing a range of evidence-based, promising and other practices. Milwaukee's holistic approach to safely reducing its foster care population (see text box) is one example.

This report also takes a holistic approach to describe legislative strategies to safely reduce the number of children in foster care. It identifies those practices and systems approaches that are well-supported or supported by research. Practices that have potential are identified as "promising." Other approaches also are described for which information is not yet available regarding their effectiveness.

Milwaukee: Holistic Reform

Milwaukee's approach to reducing its foster care population addressed various aspects of the child welfare system:

- Alternatives to placement: Safely keeping children in their homes—avoiding foster care and reducing reentries;
- Placement of children in foster care when necessary to keep them safe;
- Increased timeliness to permanency;
- Court reform and partnership;
- Aligned mission and focus on permanency with legal partners; and
- Shared responsibility for children.

Effectiveness: Jan. 1, 1998: 6,800 children in foster care
Dec. 31, 2006: 2,641 children in foster care



2. State Legislation: Preventing Out-of-Home Placement

A principal strategy to safely reduce the number of children in foster care is to prevent children's entry into care whenever possible. When families are supported and strengthened, children often can remain safely with their families and in communities where they can grow and thrive. Family support services are designed to strengthen families who have not yet experienced a crisis or become involved with the child welfare system; family preservation services are designed to strengthen families who are in crisis and at risk of having their children enter foster care. Family preservation services also can keep families safely together once their children return home from foster care. Federal law requires that states make "reasonable efforts" to keep children and youth with their families by reducing the risk of harm to those children. With some exceptions, children should enter foster care only after "reasonable efforts" have been made to keep them safely with their families. Several legislative strategies can be used to prevent out-of-home placement.

Types of Preventive Services

- **Family Support:** Community-based preventive activities designed to alleviate stress and promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children, enable families to use other resources and opportunities available in the community, and create supportive networks to enhance child-rearing abilities of parents.
- **Family Preservation:** Activities designed to protect children from harm and to help families that are at risk or in crisis, including services to prevent foster care placement.

Supports to Keep Families Together

Families often need supports such as adequate housing, cash assistance, transportation and employment services to avoid instability and potential foster care placement. In some jurisdictions, child welfare agencies work closely with public housing authorities and welfare agencies to ensure that families avoid homelessness and poverty.

Housing There is a strong link between inadequate housing or homelessness and involvement with the child welfare system. One recent study found that a group of mothers in

Philadelphia who had experienced homelessness were 8.82 times more likely to have one or more children placed in foster care than did a comparison group.¹⁷ The National Center for Housing and Child Welfare maintains that one-third of children in foster care were placed, at least in part, due to housing-related reasons. Nevertheless, child welfare caseworkers often do not pay enough attention to client families' housing needs. The Family Unification Program of the federal Department of Housing and Urban Development offers child welfare agencies and public housing authorities the opportunity to work together on behalf of struggling families. The program provides Section 8 rental assistance to eligible families so that children will not be placed in out-of-home care or prevented from leaving care due to lack of housing. The program also serves eligible youth who are leaving foster care for independent living. To apply for assistance, a local public housing authority must enter into a memorandum of understanding with the state or local public child welfare agency. The child welfare agency identifies eligible clients, helps them prepare the necessary paperwork and refers them to the housing authority, which arranges housing with participating landlords.

State legislators can reduce entry into foster care by requiring child welfare agencies to: Study housing needs among the families it serves, examine the extent to which inadequate housing contributes to foster care placement, partner with housing authorities and apply for Federal Unification Program housing assistance and other forms of federal housing aid, provide case management and other aftercare services to families that receive housing assistance, and provide training to caseworkers and supervisors about the links between homelessness and foster care placement and the resources available to stabilize families.

Cash Assistance Collaboration between child welfare agencies and TANF agencies helps to address the substantial correlation between poverty and child maltreatment. The Third National Incidence Study of Child Abuse and Neglect found that children from families with incomes below \$15,000 were 22 times more likely to be maltreated than children from families with incomes greater than \$30,000.

Accordingly, significant overlap occurs between the two systems. An ongoing longitudinal study of TANF applicants in Milwaukee found that nearly two-thirds of the

study participants experienced at least one Child Protective Services investigation, with the mean number of investigations at 5.4.¹⁸ Families on TANF and those involved in child welfare face similar obstacles, such as less education, mental health issues, domestic violence, and unresolved substance abuse issues. These problems make it difficult for parents to hold down jobs and provide safe care for their children.

Coordination and collaboration between TANF and child welfare agencies have the potential to reduce the number of children who enter foster care and to expedite reunification, for the following reasons.

- ***Fewer conflicting demands on families:*** Dual-system parents often are overwhelmed by the TANF and child welfare systems' multiple, sometimes conflicting, requirements, increasing the risk that parents will fail to meet case plan goals and that children will be placed in foster care. Coordination can ensure that case plans complement each other and are not in conflict.
- ***Better use of resources:*** When TANF and child welfare systems coordinate their efforts on behalf of families, resources that might not be available to child welfare—including child care, housing and transportation—can be accessed, less duplication of effort occurs, and caseworkers spend less time coordinating service delivery.
- ***Better solutions for families:*** Staff from child welfare and TANF agencies sometimes view problems differently. When they work together, they are more likely to develop creative strategies to meet families' needs.
- ***Better understanding of the effect of TANF policies on child welfare system involvement:*** Studies have shown that in states that have more generous welfare benefits, levels of neglect were lower and fewer children were placed in foster care. Conversely, TANF policies that decrease the resources available to families—such as full family sanctions, family caps and short time limits—are associated with increased maltreatment and placement in out-of-home care.¹⁹ Accordingly, coordinating TANF and child welfare systems could help develop TANF policy to ensure that such policy does not unintentionally increase the foster care caseload.

State Examples

In recent years, numerous states and counties have attempted to improve coordination and collaboration between TANF and child welfare systems. The philosophy underlying these initiatives is that, given the connection between poverty and child maltreatment, TANF should serve as a child abuse prevention program and that child welfare should work to prevent poverty.²⁰

California Linkages Project Thirty-three of California's 58 counties are forging links between child welfare agencies and CalWORKS, the state's county-run TANF program. The program is directed by the Child and Family Policy Institute of California.²¹ The following excerpt from the Linkages Planning Guide²² highlights the benefits of collaboration for families and counties.

For the families

- Coordinating services and providing quicker access to services can yield better outcomes for families because they don't have competing plans, goals, and timelines.
- A single point of entry for families to access multiple service systems makes life easier for families who already have significant stress and few resources.
- Improved screening and assessment means that prevention services can be added, expanded, or offered earlier.
- A coordinated system can establish more accountability. There is less opportunity for miscommunication between families and staff.
- Families reduce the amount of time spent with program administration and increase the time spent in applying the skills learned.
- For families with domestic violence, mental health issues, alcohol and drug abuse, and other barriers to self-sufficiency, linkages can facilitate access to a broad array of coordinated services.

For the county

- Coordination of services can mean better and more efficient use of existing resources—funding, staff, and time.
- Cost savings may result from reducing duplicate services, improving client outcomes, and reducing recidivism.

- Staff serving the same families will have a common purpose and a stronger sense of community because separations between programs will be reduced.
- Staff feels more knowledgeable, effective, and empowered; better morale among staff also helps with retention and recruitment.
- Coordination of programs may mean that the county can more effectively implement statutes and regulations.

Linkages counties have used various methods to coordinate TANF and child welfare systems, including coordinated case planning; “linked” case planning, in which elements of one plan will “count” toward the other; co-location of workers and services; improved communication between systems; and targeting services to specific populations, especially TANF recipients with known case characteristics such as those with impending sanctions or families at the front end of the child welfare system.²³

To date, several counties participating in Linkages have reported fewer returns to the child welfare system, fewer child removals, better reunification rates, less time in care, and increased job retention.²⁴

North Carolina TANF/Child Welfare Collaborative

The North Carolina initiative began as a three-county pilot project and expanded to involve additional counties in 2001. County level collaboration between child welfare agencies and Work First (North Carolina’s TANF program) now is a key strategy of the state’s Multiple Response System. For example, child welfare agencies and Work First staff collaborate when families first come to the attention of the agency, providing comprehensive assessments, necessary services and economic support. Work First staff also are invited to participate in Child and Family Team meetings.²⁵

State legislators can require or encourage collaboration between child welfare and TANF agencies. State legislation can require that planning for such collaboration include assessing the caseload overlap between the two systems; examining how both systems can collaborate to prevent out-of-home placement of children; and integrating or coordinating case planning, case management and service provision; studying how to best share or jointly manage resources; and planning for engagement and outreach to community stakeholders.

State Legislative Approaches to Prevent Out-of-Home Placement

- Support prevention, family support and family strengthening services;
- Prohibit requiring relinquishment to obtain mental health services for children;
- Provide residential substance abuse treatment services for mothers and their children;
- Require safety determinations before children enter foster care;
- Improve decision making regarding removal of children from their parents’ custody; and
- Support families after children leave foster care

Support prevention, family support and family strengthening services

In many states, lawmakers have authorized financial resources for prevention programs that promote parents’ ability to care for and nurture their children and support their children’s healthy development. Many of these programs target pregnant and new mothers so that children have a healthy start and mothers and fathers learn the rudiments of parenting. Other programs focus on early childhood development through early intervention services and prekindergarten that support both children and parents through these critical developmental stages. In some states, lawmakers require that research-based interventions be used to provide family support and family strengthening so that parents are equipped to raise their children in safety and in healthy ways.

Prohibit requiring relinquishment to obtain mental health services for children

In many states, parents must choose between securing the intensive mental health treatment their child needs or maintaining custody of their child. When families are uninsured or have exhausted their private insurance benefits, mental health providers and public child welfare agency staff often advise parents that relinquishing custody of their child to the state is the only way to obtain the intensive mental health services their children need. Custody relinquishment carries with it a host of negative consequences, including causing children to feel abandoned by their family; placing children in more expensive and less supportive residential arrangements; stigmatizing parents; and depriving parents of any say in their children’s day-to-day activities. Statutes in Colorado, Connecticut, Idaho, Indiana, Iowa, Maine, Massachusetts, Minnesota, North Dakota, Oregon, Rhode Island, Vermont and Wisconsin prohibit

the public child welfare agency from requiring custody relinquishment in order for parents to obtain mental health services for their children.²⁶

Supported by Evidence

Provide residential substance abuse treatment services for mothers and their children

Research has shown positive results for mothers who participate in residential substance abuse treatment programs and bring their children. One study found that women enrolled in a comprehensive, residential substance abuse treatment program for pregnant and parenting women and their children experienced significant improvement in several areas, including substance use, employment, legal involvement, mental health, parenting attitudes, and risky behavior.²⁷ Other studies note equally positive results.²⁸ Although state legislatures have not focused on development and implementation of these programs, the new federal law, Fostering Connections to Success and Increasing Adoptions Act of 2008, provides family connections grants to states to provide residential substance abuse treatment services where children can accompany their mothers. Studies of results of these grant programs will provide key information about their most effective components.

Improve decision making regarding removal of children from their parents' custody

Once a family has been reported for child abuse and neglect, the child welfare agency makes three key decisions:

1) whether abuse or neglect has occurred; 2) whether the child is at imminent risk of harm if he or she remains with the family; and, if so, 3) whether the child should enter foster care. If a child can be safely cared for in the home, there is no reason for removal. It is all too common, however, that children enter foster care when the harm could be remediated and the child could safely remain within the family and community.

To safely reduce the number of children entering foster care by ensuring that only children who require the safety and protection of foster care enter care, state lawmakers can consider the following.

- Clearly define “child abuse,” “child neglect,” “safety risk” and “safety threat” so that child welfare agencies have clear guidance on what parental actions constitute child maltreatment. Oklahoma recently amended legislation regarding when a child can be taken into custody before a petition is filed. The amended law provides that a child can be removed if there is reasonable suspicion that “the child is in need of immediate protection due to an imminent safety threat or the circumstances or surroundings of the child are such that continuation in the child’s home or in the care or custody of the parent, legal guardian, or custodian an imminent safety threat to the child.”²⁹

Evidence-Based Programs to Prevent Children from Entering and Remaining in the Child Welfare System: Benefits and Costs for Washington

In 2007, the Washington Legislature directed the Washington State Institute for Public Policy to estimate whether “evidence-based” programs and policies could reduce the likelihood of children entering and remaining in the child welfare system, including both prevention and intervention programs. After an analysis of 74 rigorous comparison group evaluations of programs and policies, most of which were conducted in the United States, the Institute found:

1. *Some evidence-based programs work, some do not.* The prevention programs found to be supported or well-supported by evidence included:
 - Nurse-Family Partnership
 - The Incredible Years
 - Triple P Positive Parenting Program
2. *The economics look attractive.* Among the successful programs, several were found to hold promise in generating long-term monetary benefits well in excess of program costs.
3. *The potential for the state of Washington appears significant.* The institute estimated the statewide benefits of implementing an expanded portfolio of evidence-based programs over a five-year period would yield long-term net benefits of between \$317 million and \$493 million (of which \$6 million to \$62 million would be net taxpayer benefits).



(The full report is available at: www.wsipp.wa.gov/rptfiles/08-07-3901.pdf.)

- Require that child protective services investigator caseloads are reasonable so that each has sufficient time to work with families and fully assess the risks and the families' strengths.
- Require the child welfare agency to use safety and risk assessment processes to strengthen investigators' ability to determine the potential harm to the child and future risks and to assess whether foster care is necessary.
- Require law enforcement officers to contact the public child welfare department when they believe that a child is abused or neglected and there is an immediate risk to the child's safety. New Mexico recently enacted legislation that provides that a child be held or taken into custody when a law enforcement official believes that the child has been maltreated and is at immediate risk, "provided that the law enforcement officer contacts the department to enable the department to conduct an on-site safety assessment to determine whether it is appropriate to take the child into immediate custody."³⁰
- Use decision-making conferences that bring together family and professionals to make safety decisions for the child (described more fully later in this paper).
- Require the child welfare agency to divert children from foster care, when safe and appropriate, through voluntary placement with relatives.

- Require expedited court hearings for children who have not been removed from the home but who are likely to be removed absent the provision of services under the court's protective supervision.

Research has shown that two key practices are effective in preventing the unnecessary entry of children into foster care.

Supported by Evidence

Family Teaming. Various family teaming approaches have been developed that involve parents and other family members in planning for a child's safety following a substantiated report of child abuse or neglect. Studies of one approach, Family Group Conferencing (FGC), consistently show that families are willing to participate in family meetings, the plans that families develop meet standards of child safety, family members perceive that they have considerable voice and decision-making authority, and both families and social workers are satisfied with the process.³¹ Studies have shown that FGC engages fathers more successfully than traditional case planning strategies.³² These studies have demonstrated that family teaming approaches that include extended family members in developing intervention and support plans can help stabilize families and reduce the risk of removal or determine alternatives to foster care.³³ At least 12 states require by law that child welfare agencies use family group conferencing or other family teaming approaches to plan for children.³⁴

Table 2. Selected States: Key Reduction-Related Child Protection Practices to Keep Children from Unnecessarily Entering Foster Care

State/ Jurisdiction	Use of Structured Risk Assessment Tools	Use of Structured Safety Assessment Tools	Use of Alternative Response/ Differential Response	Family Group Decision Making and Team Decision Making
California	√	√	√	√
Delaware	√	√		
Florida	√	√	√	
Illinois	√	√		
Nevada	√	√		
New York State	√	√		
Los Angeles County	√	√		√
New York City	√	√		√

Principles of Family Teaming Approaches

- All families have strengths.
- Families are expert on themselves.
- Families deserve to be treated with dignity and respect.
- Families can make well-informed decisions about keeping their children safe when they are supported.
- When families are involved in decision-making, results can improve.
- A team is often better able than an individual to engage in creative and high-quality problem-solving.



Source: Casey Family Programs, Report to the State of Nevada Legislative Subcommittee Workgroup on Foster Care (Seattle, Wash.: Casey Family Programs, 2008).

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 supports the further development of family conferencing practices by providing grant funds to states to support implementation of family group decision-making approaches.

Supported by Evidence

Differential Response. Differential response, also referred to as “dual track,” “multiple track” or “alternative response,” allows child protective services to respond differently to accepted reports of child abuse and neglect, based on such factors as the type and severity of the alleged maltreatment, the number and sources of previous reports, and the willingness of the family to participate in services. Differential response provides child welfare agencies with a broader set of options for working with families at the first signs of trouble, including innovative partnerships with community-based organizations that can help support families that are in need, before further problems develop. Through differential response, social workers engage families in solutions and provide focused services to make needed improvements.³⁵

Maryland, Minnesota, New York, North Carolina, Tennessee and Wyoming laws authorize or require the child welfare agency to consider or implement differential response approaches.³⁶ Minnesota and North Carolina evaluated their statewide or pilot differential response systems. The first large-scale, multi state study, published in 2005, was based on an analysis of case data reported from Kentucky, Minnesota, Missouri, New Jersey, Oklahoma and Wyoming to the National Child Abuse and Neglect Data System (NCANDS).³⁷ Overall, evaluations of differential response systems demonstrate positive results, particularly sustained child safety, improved family engagement, increased community involvement, and enhanced worker satisfaction. Pilot program evaluations have generally led to expanded implementation. Several evaluations, however, noted that continuing problems with the adequacy of resources—such as staffing and services—limited both implementation and the degree of positive change.³⁸

State Legislative Approaches to Maintaining Permanency

- Services to families following children’s exit from foster care
- Extension of adoption/guardianship subsidies beyond age 18
- Maintaining family connections after adoption
- Services to children when adoptions end

Supporting families after children leave foster care

Once a child has left foster care to return safely to his or her parents or other primary caregivers or to adoption or guardianship, families often continue to need services and supports to safely maintain the child in the home and meet the child’s physical, emotional and developmental needs. Lawmakers in several states have developed supports to help families to avoid, whenever possible, the need for children to re-enter foster care.

Services to families following children’s exit from foster care

Children who leave foster care often have mental health and other challenges as a result of their histories of abuse, neglect, separation and loss. Lawmakers in some states have recognized that access to mental health and other services for children and their parents is critical to family stability and to prevent children’s reentry to foster care. The District of Columbia authorized its child welfare agency to make grants to community groups to deliver prevention services to support and strengthen families.³⁹ The Illinois legislature required the department to adopt a rule regarding specialized services for children with high-end needs who are in foster care, with adoptive families or in subsidized guardianship arrangements.⁴⁰

Minnesota’s Experience with Alternative Response

In 2000, Minnesota began a pilot alternative response program. A 2004 evaluation found that this approach to reports of child maltreatment reduced subsequent recurrence among families for whom it was intended without compromising children’s safety. Despite increased initial investment costs to pay for more services and staff time, subsequent costs were reduced because fewer children and families reappeared in the child welfare system. Feedback from families and social workers showed that both preferred the alternative response when possible. By the end of 2005, all Minnesota counties had implemented the new model, renamed Family Assessment Response. Ongoing evaluation found that recurrence of abuse and neglect occurs less frequently within families who participate, cost savings have continued, and workers’ attitudes have become more positive as they gained experience with the approach.

Source: American Humane Association, *Extended Follow Up of Minnesota’s Family Assessment Response: Final Report*; www.americanhumane.org/assets/docs/protecting-children/PC-AR-study-family-response-MN.pdf.

Extension of adoption/guardianship subsidies beyond age 18

Recognizing the need to provide adoptive and guardian families with ongoing support when their children have exceptional needs, New Mexico provides that payments of adoption subsidies can be made for a child between the ages of 18 and 21 when the child is in the medically fragile waiver program.⁴¹ Oklahoma extends adoption assistance benefits to age 19 under certain circumstances.⁴² Federal law now allows states to receive federal support for adoption and guardianship subsidies for certain youth through age 21.

The Fostering Connections to Success Act and Adoption and Guardianship Assistance

This federal law allows states to choose to continue federally supported subsidies on behalf of eligible children who leave foster care after their 16th birthday for adoption or kinship guardianship so long as those youth have not yet reached their 21st birthday and are enrolled in school, employed at least 80 hours a month, or participate in an activity designed to promote or remove barriers to employment or when the state determines that “the child has a mental or physical handicap that warrants continuation of the assistance.”

Promising Practice

Maintaining family connections after adoption

Research suggests that adoptions are more likely to be successful when healthy relationships are maintained between children’s adoptive and birth families, including ongoing connections between children and siblings who are not adopted with them.⁴³ In several states, lawmakers have developed programs to support post-adop-

tion contact when it is appropriate. New Hampshire, for example, provides voluntary mediated agreements between birth and adoptive parents for post-adoption contact with a child who was adopted from the legal custody of the state child welfare agency.⁴⁴ Maryland has authorized written agreements between prospective adoptive parents and parents of a prospective adoptee to allow contact after the adoption between the parent or other relative of the minor adoptee and the adoptee or adoptive parent.⁴⁵ New York allows parties to an adoption proceeding to enter into an enforceable agreement regarding post-adoption communication with or contact between an adoptive child, adoptive parent and birth parent, and/or the child’s biological siblings.⁴⁶

Services to children when adoptions end

After a child is adopted from foster care, the adoption may end, in some cases because the adoptive parents make the decision to end the adoption and in other cases due to the death of an adoptive parent. In a few states, lawmakers have authorized the state agency to provide services and support for children under these circumstances so they do not have to return to foster care or, when they must reenter care, the stay is minimized. California, for example, has enacted legislation that authorizes the state, in the case of a disrupted adoption, to search for relatives of the child and to provide them with information about the child if doing so will benefit the child’s well-being.⁴⁷ Illinois allows the department to continue to provide financial and education assistance for a child during the period between when a child’s adoptive parents died and when a new adoption of the child is finalized, regardless of federal financial participation in the cost.⁴⁸

3. State Legislation: Reducing Length of Stay in Foster Care

Safely reducing the number of children in foster care requires reducing the length of time that children remain in care. In FY 2006, more than half the children in foster care had been in care for more than one year; 13 percent (67,088 children) had been in care for five years or more (Table 3).

Table 3. Length of Stay for Children in Foster Care in FY 2008

Length of Stay in Foster Care	Percentage of Children in Care by Length of Stay	Number of Children in Care by Length of Stay
Less than 12 months	42%	190,846
12 months to 23 months	22%	106,164
24 months to 35 months	12%	58,518
3 to 4 years	12%	53,709
5 years or more	12%	53,763

Source: U.S. Department of Health and Human Services, AFCARS Report: Preliminary FY 2008 Estimates as of October 2009.

State lawmakers have developed a range of strategies to reduce the time children remain in foster care. Some are designed to strengthen the role of the court, given its critical decision-making role in child welfare cases. Others are designed to strengthen child welfare practice so that permanency planning occurs more expeditiously and safely supports children as they leave care and go to their birth, adoptive or guardianship families.

State Legislative Strategies to Reduce Length of Stay in Foster Care

Strengthening the Courts

- Reduce court delays
- Implement new court models
- Improve legal representation for children and families
- Have youth participate in their court hearings

Strengthening Child Welfare Practice

- Strengthen practices to promote safe, timely reunification
- Strengthen kinship care and guardianship
- Strengthen adoption

Strengthening the Courts

State courts are key decision makers in the lives of children who are involved in the child welfare system. Juvenile and family court judges make decisions about whether a child enters foster care, whether children should be reunited with their parents, whether parents' rights should be terminated, and whether a child should be adopted or placed with a relative guardian. State courts can hasten or delay children's movement in and out of foster care. They must balance a number of factors in making decisions for children: they must protect children from further harm; they must make timely decisions about their futures; and they must respect parents' due process rights. State courts serve as the gatekeepers and monitors of state child welfare systems, largely controlling which children and families are served by the child welfare system and the nature of the services they receive.

The Role of the Courts in Child Welfare Cases Under Federal Law

- Determine whether "reasonable efforts" were made to prevent the need for the child to enter foster care.
- Decide whether and what reunification services are required.
- Hold comprehensive permanency hearings within 12 months of the child's initial placement into foster care.
- Oversee the filing of termination of parental rights petitions according to federally established time lines.
- Ensure that foster and adoptive parents receive notice of and an opportunity to be heard in proceedings involving the child.

Source: Child Welfare Information Gateway, *Major Federal Legislation Concerned with Child Protection, Child Welfare and Adoption*, 2009; www.childwelfare.gov/pubs/otherpubs/majorfedlegis.pdf.

Lawmakers in several states have enacted legislation that strengthens the court's ability to make better and more timely permanency decisions for children in foster care and, as a result, reduces the length of time children remain in foster care.

Reduce court delays in child welfare proceedings

Unwarranted delays in court hearings can create barriers in permanency planning for children in foster care and contribute to extended stays in the system. Some states have enacted legislation to reduce or eliminate delays in child welfare proceedings. Delaware and Tennessee measures eliminate delays in termination of parental rights proceedings and appeals.⁴⁹ The Washington Legislature instructed courts in dependency cases to hold a review hearing within 30 days from the date of removal to determine whether the permanency plan should be changed, a termination of parental right petition should be filed, or other action is warranted.⁵⁰ States are increasingly recognizing the need to measure judicial compliance with deadlines. In 2006, California enacted the Child Welfare and Performance Accountability Act, which requires courts to develop and track their performance on key child welfare measures.⁵¹

Louisiana, Michigan and Utah lawmakers enacted laws that require courts to measure their adherence to permanency deadlines in child abuse and neglect cases.⁵² In 1999, the Louisiana Legislature required development of a judicial performance accountability program that includes all aspects of court performance, including the timeliness and quality of child abuse and neglect proceedings.⁵³ Michigan lawmakers enacted legislation in 1997 that requires the state court administrative office to evaluate and report annually on their efforts to obtain permanency for children.⁵⁴ In 2001, the Utah Legislature required the state child welfare agency, the state attorney general and the judicial branch to report yearly on child welfare cases that are not in compliance with statutory time limits and the reasons for noncompliance.⁵⁵

Implement new court models

Some state lawmakers have required or authorized development of innovative court models that promise to enhance and expedite judicial decision making in child welfare cases. Arizona required an integrated family court pilot program in three counties.⁵⁶ New York established guidelines for implementing the “one family, one judge” model to ensure that adoption proceedings are initiated in the same court that has jurisdiction over related child welfare matters.⁵⁷ New York lawmakers also permitted courts to authorize conferencing or mediation at any point in the proceedings for further planning for a child in foster care.⁵⁸

Supported by Evidence

Family treatment drug courts represent a rapidly expanding program model designed to improve treatment and child welfare results for families who have substance abuse problems and have been reported to the child welfare system.

Goals of Family Treatment Drug Courts

- Provide parents with an opportunity to be clean and sober.
- Provide support to help parents resist further criminal activity and provide skills that will help them to lead productive, substance-free and crime-free lives.
 - Help the parent to become emotionally, financially and personally self-sufficient.
 - Increase the personal, familial and societal accountability of offenders.
 - Help the parent develop adequate parenting and coping skills to serve as an effective parent.

Key Elements of a Family-Friendly Court System

- Enhanced use of non adversarial processes, such Alternative Dispute Resolution methods.
- Process cases fairly and more efficiently and eliminate, when possible, hearing delays.
- Streamline case flow procedures and eliminate duplication of effort.
- Enhance the assignment to and status of the family law bench.
- Develop an automated case management system that can identify and retrieve court records located in various court divisions or departments.
- Develop statewide rules of procedure specific to the needs of family law cases.

Source: Administrative Order No. 2003-23, In the Supreme Court of Arizona, Authorizing Integrated Family Court Pilot Programs in Coconino, Maricopa, and Pinal counties, February 23, 2003; www.supreme.state.az.us/orders/admorder/Orders03/2003-23.pdf.

Studies have found that, compared to parents who did not receive family treatment drug court services, those who participated in these services completed more substance abuse treatment sessions. Children of participating parents achieved permanency more quickly and were more likely to be reunified with their parents, compared to children of nonparticipants.⁵⁹ California, Michigan, North Carolina and Rhode Island use the family drug treatment court model.⁶⁰

**Supported
by Evidence**

**Improve legal representation
for children and families**

Information provided by well-trained, committed legal advocates is essential to help judges make informed decisions about children’s permanency plans and to determine whether children can move from foster care to reunification with their parents, adoption or guardianship. A recent study found that children’s move from foster care to permanent families is more timely when they have good legal representation (see text box). In California, Louisiana, New Hampshire, New York, Ohio and Oklahoma, lawmakers have enacted measures to expand or improve legal representation of children and families.⁶¹

**Expediting Permanency:
Legal Representation for Foster Children in Palm
Beach County—Key Evaluation Findings**

The Legal Aid Society of Palm Beach County’s Foster Children’s Project (FCP) operates with a staff of 10 attorneys, two permanency planners and various support staff. FCP attorneys serve as traditional legal advocates governed by the “expressed interests” of their clients. Because its caseload averages only 358 clients, FCP is able to provide more individual attention. The FCP evaluation found:

- Children represented by FCP have significantly higher rates of achieving permanency.
- Adoption or guardianship was almost three times more likely for children served by FCP.
- Reunification rates were unchanged.
- Permanency and the timing of legal milestones were expedited.



ABA Center on Children and the La.: Study Shows Legal Representation of Children Expedites Permanency, June 2008: www.abanet.org/child/08_06_Vol10Iss3.pdf.

Most states have recognized the need for parents to be represented in dependency hearings or, at the very least, in termination of parental rights hearings. In an analysis of state statutes conducted in 1998, the National Council of Juvenile and Family Court Judges (NCJFCJ) found that:

- In 39 states, counsel must be appointed for indigent parents;
- Six states include provisions that counsel be appointed for parents in all dependency proceedings;
- In three states, counsel must be appointed only for parents in termination of parental rights proceedings; and
- Three states do not explicitly provide in statute for the appointment of counsel for parents.⁶²

Research demonstrates that representation of parents is closely tied to improved results for children and families. Washington’s Office of Public Defense recently initiated a pilot program in two county juvenile court systems focused on improving the skills of defense attorneys through increased training, limited caseloads and increased levels of communication between attorneys and their clients. A January 2003 evaluation of case files that compared abuse and neglect cases in the pilot program (public defenders with enhanced training) to a control group of similar cases reported numerous positive improvements. Most notable were improved hearing rates, the rate of family reunification, and the rate at which cases were opened and resolved.⁶³

New York City’s Center for Family Representation, which provides legal services for parents along with the services of a social worker and a parent advocate (a parent who has directly experienced the child protective and foster care systems and has successfully reunified with his/her child) has shortened the time that children in foster care wait to be safely reunified with their parent. The Center’s average length of stay for all children who enter foster care was less than four months. By comparison, the City of New York reports that the median length of stay for children who return home is 11.5 months, and the median length of foster care for all children in care in New York is 26 months.⁶⁴

A report prepared for the Pew Commission on Children in Foster Care, identified specific barriers to quality representation of parents in dependency proceedings—inadequate case preparation, inadequate compensation, and unreasonable caseloads.⁶⁵ Adequate preparation, compensation, reasonable caseloads and clear communication between parents and their attorneys were found to be critical to the

positive results achieved in the Washington study and are features of the Center for Family Representation’s model of legal representation. State lawmakers may want to consider legislative action to address these issues.

Have youth participate in their court hearings

Since the release of the Pew Commission on Children in Foster Care report in 2000, attention focused on the benefits of participation of youth in foster care in their own court hearings.⁶⁶ The Pew Commission recommended that, “courts should be organized to enable children and parents to participate in a meaningful way in their own court proceedings.”⁶⁷ In several states, lawmakers have enacted requirements that youth receive notice of and/or participate in their court hearings. California law provides that youth age 10 and older are to be notified of their hearings.⁶⁸ New York law requires family court judges to consult with children at all permanency hearings.⁶⁹ Oregon law requires that children age 12 and older must receive notice of their hearings.⁷⁰ In other states, courts have taken the lead to ensure that youth in foster care participate in their court hearings. In Hawaii, for example, judges of the First Circuit implemented policy that requires all youth age 14 and older appear at their court hearings unless they cannot be located, refuse to attend, or the court determines that participation would be against their best interests.⁷¹

Strengthening Child Welfare Practice

Research and the experience of child welfare professionals make clear that children spend less time in foster care when child welfare agencies use sound permanency planning practices designed to meet the child’s explicit permanency goal—reunification, adoption, guardianship, living with relatives or, when appropriate, “another planned permanent living arrangement.” A number of strategies have been developed to improve the quality of permanency planning services that can expedite children’s safe exits from foster care.

Lawmakers in some states have focused on family permanence goals for children instead of goals that may keep youth in foster care until they become old enough to live on their own. Lawmakers in Maine, for example, repealed laws in 2007 that gave the Department of Health and Human Services the authority to assign a “permanency goal” of long-term foster care—which means that no effort is made to find a permanent family for the child.⁷² New York lawmakers examined the use of “another planned living arrangement” as a permanency goal for the child and clarified that this plan must include documentation of the child’s significant connection with an adult who is willing to be a permanent resource for the child.⁷³ California law requires that social workers ask youth over the age of 10

who live in group homes to specify who is important to them and to take actions to support those relationships.⁷⁴ Under the law, funds can be used to convene a team of people who are important to the youth to develop a transition plan.

Other state lawmakers have required the use of concurrent permanency planning, recognizing that children will be able to go to a permanent family more quickly if more than one permanency plan is being pursued simultaneously. Florida, Idaho and Montana require concurrent planning for cases that involve removal of a child from parents’ custody.⁷⁵

Concurrent permanency planning: A planning process in which the child welfare agency works with the family toward family reunification, at the same time establishing an alternative permanency plan to be implemented if children cannot safely return to their birth parents.

Children’s stays in foster care can be shortened by strengthening child welfare practices that:

- Promote safe and timely reunification,
- Strengthen kinship care and guardianship, and
- Strengthen adoption

Strengthen practices to promote safe, timely reunification

In most cases, reunification is the preferred goal when children must enter foster care. With some exceptions, child welfare agencies are required to use “reasonable efforts” to safely reunify children with their parents. The Adoption and Safe Families Act, however, set time frames for reunification efforts. When a child has been in foster care for 15 of the most recent 22 months, the law directs, with some exceptions, that reunification cease and that a petition to terminate parental rights be filed. This time frame emphasizes the urgency with which services for parents and children must be provided if safe reunification is to be achieved. State lawmakers have enacted legislation in several areas to promote safe and timely reunification.

Supported by Evidence

Family involvement in decision making is as important in promoting safe and timely reunification as it is in preventing the children’s entry into foster care. As discussed earlier, at least 12 states have legislated family group conferencing or other family team approaches that include parents and extended family, agency representatives, and community members selected by families, in making decisions about children’s safety and permanence.⁷⁶ Studies suggest that family engagement supports permanency through reunification and

that teams have an added benefit: they have shown promise in retaining social work staff that, in turn, tends to improve the quality of services as the workforce becomes more experienced.⁷⁷

Supported by Evidence

The primary purpose of **parent-child visits** is to maintain the parent-child relationship and other family attachments and to reduce the sense of loss and/or abandonment children typically experience at placement. When carefully and intentionally orchestrated, parent-child visits can be the determining factor in safe reunification. Research suggests that parent-child visits in the context of a reunification plan result in shorter foster care placements, improved child well-being and an increased likelihood of lasting reunification.⁷⁸ In some states, lawmakers require child welfare agencies to implement practices to strengthen parent-child visiting when reunification is the plan for children in foster care.

- Alaska requires foster parents to provide regular opportunities for birth parent visitation and encourages foster parents to serve as mentors for birth parents.⁷⁹
- The New Mexico Children's Code requires that a permanency goal be selected at the permanency hearing. If the goal selected is reunification, a Transition Home Plan is required that includes parent-child visits and an extended trial home visitation.⁸⁰
- New York has authorized courts to direct social services agencies to make diligent efforts to encourage and strengthen the parental relationship, including visitation.⁸¹
- In 2004, Washington lawmakers required development of research-based policies and protocols to govern parental visitation with children in foster care.⁸² In 2007, state legislators required the Department of Corrections, the Department of Social and Health Services, the Department of Early Learning and the Office of the Superintendent of Education to review their agency policies related to the adequacy and availability of services for inmates who have children or the children and families of a person who is incarcerated. The law requires that the agencies adopt policies and programs that encourage familial contact and engagement between inmates and their children.⁸³

Caseworker visits with children in foster care

The Child and Family Services Improvement Act of 2006 (CFSIA) required states to develop plans by June 20, 2008,

to ensure that at least 90 percent of children in foster care would have monthly caseworker visits and that most of those visits would be in the child's residence. The target date for full implementation of the plans is Oct. 1, 2011, but target percentages are required for each fiscal year, as is a description of plans to achieve those targets. A number of states currently have policies regarding the timing and sites of caseworker visits with children.

- Arkansas' policy is for visits to take place no less than weekly for the first month of placement foster care or a new foster home. Visitation after the first month in care then occurs monthly in the foster home, and the caseworker maintains weekly contact with the child through the following settings: school, parental visits, during transportation to medical appointments at court hearings or via telephone.⁸⁴
- In Missouri, the child's service worker is required to meet face-to-face, individually and jointly, with the child and the placement provider, at the placement, the next business day following placement. The worker then meets face-to-face with the child and placement provider for a minimum of two times per month and no less than seven calendar days apart to monitor the placement and assess the child's. One of the two visits must occur in the placement home.⁸⁵
- Utah requires a minimum of two visits per month with each child in out-of-home care. One visit must be face-to-face in the out-of-home placement. The second visit can occur at any location, including the foster home.⁸⁶
- Washington, in budget language, stated that staffing increases were necessary to achieve caseworker visit targets.

When reunification is the permanency goal, **services for parents** are needed to help parents resolve the problems that brought their children into foster care. In some states, lawmakers require that agencies provide needed services to parents so that they can safely reunify with their children.

- Arizona, for example, has authorized courts to order service providers to appear and discuss a parent's assertion of a right to receive services.⁸⁷
- Washington requires the department to ensure that parents in dependency proceedings receive priority access to remedial services recommended by the department or ordered by the court.⁸⁸

- Both Oregon and Washington law require that the services provided be evidence-based.⁸⁹

In some cases, parents' rights are terminated, but the child remains in foster care without being adopted. These youth are at risk of eventually aging out of care to live "independently" without the support of family. For some of these young people, reunification with their birth parents may be an option. Lawmakers in some states have enacted legislation that allows for **reversal of termination of parental rights**.

- In 2005, for example, California lawmakers passed legislation that permits a child who has not been adopted after at least three years from termination of parental rights to petition the juvenile court for reinstatement of parental rights, pursuant to specified procedures.⁹⁰
- In 2007, Washington enacted legislation allowing a child who is at least age 12 to petition the court to reinstate previously terminated rights of his or her parent(s). The law provides guidelines and requirements for filing such petitions.⁹¹

Supported by Evidence

Strengthen kinship care and guardianship

Research has consistently shown that children benefit when they are cared for by relatives. Children in foster care who are placed with relatives, compared to children placed with non-relatives, have more stability (fewer changes in placements), have more positive perceptions of their placements, are more likely to be placed with their siblings, and demonstrate fewer behavioral problems.⁹²

When children cannot be safely reunited with their parents and adoption is not an appropriate option, legal guardianship can provide a child with security and the protection of a committed adult. The guardian has the right to physical custody of the child, to make decisions for the child, and to represent the child in legal actions. Unlike adoption, guardianship does not require termination of parental rights; parents can retain the right to visit, consent to adoption, and provide support when it is appropriate. The permanence of legal guardianship allows children to attach to the guardian and eliminates the continuous threat of separation that children in foster care often experience. Lawmakers in several states have enacted legislation to promote both the temporary and permanent care of children by relatives. It is anticipated that a number of states will participate in the federal kinship assistance program, sharing costs of guardianship subsidies with the federal government for eligible children and relative guardians.

Expanding the definition of "relatives" for purposes of placing children. State definitions vary on who is considered a "relative" regarding placing children with a "relative" when a child must enter foster care or determining who can serve as a "guardian" for the child. Several states have expanded the definition of "relatives" so that more relatives who could be appropriate placements for the child can be considered as permanent resources for children in foster care.

- Wisconsin expanded the statutory definition of "relative." Previously, the definition included parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle or aunt and whether the relationship is by blood, marriage or adoption. The expanded definition now includes stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, second cousin, step-uncle, step-aunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce.⁹³
- Washington expanded its list of relatives who can receive and care for a child in foster care to include second cousins and relatives of any half-siblings. The law gives placement preference to anyone who has a preexisting relationship with the child as long as certain conditions are met. The law establishes a preference for placement with a relative and requires a child-placing agency to follow the wishes of the parent regarding placement.⁹⁴

Promising Practice

Conducting family search. Being in foster care can sever relationships between young people and those who are important to them, including family and caring adults. Instead of assuming that youth in foster care do not have "family," child welfare systems across the country are using family search practices to identify family members, engage them in case planning with the youth, and explore the possibility of establishing permanent relationships. Alaska, Connecticut, Florida, Illinois, and Virginia require efforts be made to identify and locate relatives who can serve as placement resources for children in their child welfare systems.⁹⁵ The new federal law, Fostering Connections to Success, requires relative search and notification when children enter foster care and, as a result, requires implementation of such policies in all states.

The Fostering Connections to Success Act and Relative Notification and Outreach

Federal law now requires that, within 30 days of a child's removal from parental custody, the child welfare agency must exercise due diligence to identify and provide notices to all adult grandparents and other adult relatives of the child unless there is family or domestic violence. The law also provides federal funds for new Family Connections Grants for intensive family-finding efforts that use search technology to find birth family members of children in foster care, work to reestablish relationships, and explore ways to find a permanent family for the child.

Supported by Evidence

Relatives as permanent resources for children in foster care. Lawmakers in some states have responded to concerns that child welfare agencies do not consistently and appropriately respond to relative caregivers' interests in being the permanent resources for children in foster care. California, for example, enacted legislation that states that a child welfare agency cannot remove a child from the home of a relative solely on the basis that the relative's preference is legal guardianship over adoption. The law also requires that the child welfare agency provide family reunification services to a relative before removing a child from the relative's home.⁹⁶

Services and supports for kinship caregivers and relative guardians. Grandparents and other relatives raising children face a range of challenges. Many are older, have health problems and have lower incomes. They often have limited access to information and services that can help them enroll children in school, obtain health care for their children, maintain public housing leases, obtain affordable legal services, and access a variety of federal benefits and services. Recognizing the needs of grandparents and other relatives who are raising children, lawmakers in some states have created or expanded programs to support relative caregivers of children, both within and outside the child welfare systems. Some programs such as California's Kin-GAP program and Kansas' Grandparents-as-Caregivers—provide financial assistance.⁹⁷ Programs in Connecticut and Kentucky provide relative caregivers with information and referrals to services.⁹⁸ Maine recently created a Permanency Guardianship and Permanency Guardianship Subsidy to provide monthly financial support to relative guardians.⁹⁹

The Fostering Connections to Success Act and Kinship Care

Federal law now gives states the option to receive federal reimbursement for kinship guardianship assistance made on behalf of grandparents or other relatives who have assumed legal guardianship of the Title IV-E eligible children for whom they cared as licensed foster parents for at least six months and for whom they have committed to care permanently. New federal law also creates Family Connections Grants for kinship navigator programs to help kinship caregivers learn about, find and use programs and services to meet not only the needs of the children they are raising but also their own needs, and to promote effective partnerships among public and private agencies to ensure that kinship caregiver families are served.

Sibling connections. In many families involved with the child welfare system, sibling relationships take on great importance because they can provide the support and nurturing that parents may not have consistently provided to their children. Research has validated that, for many children in foster care, sibling relationships promote resilience and provide children with the security that is otherwise lacking in their lives.¹⁰⁰ Studies show, however, that many children are separated from their siblings when they enter foster care; they are not placed together, and efforts are not made to maintain contact.¹⁰¹ State lawmakers have recognized that sustaining and supporting sibling relationships is a key aspect of achieving permanence for children in foster care.

Many states have laws that address sibling placement and contact.

- Maryland, for example, requires the department to place a sibling group together if it is in the best interest of the children and does not conflict with any health or safety regulation. The law further allows siblings separated due to foster care or adoption to petition the court with jurisdiction over one or more siblings for reasonable sibling visitation rights.¹⁰²
- Iowa defined “sibling” and provided for visitation between children in foster care and their siblings. The law instructs the department to make reasonable efforts to provide for frequent visitation or ongoing interaction between the child and the child's siblings from the time of the child's placement until the child returns home or is permanently placed. Under the law, anyone who wishes to assert a sibling relationship with a child in foster care and request visitation can file a petition with the court.¹⁰³

- California, Maine, New Hampshire, New York and Wisconsin also have likewise enacted laws to ensure that siblings in the child welfare system remain connected.¹⁰⁴

The Fostering Connections to Success Act and Sibling Connections

This new federal law requires child welfare agencies to make reasonable efforts to place siblings removed from their home in the same foster care, kinship guardianship or adoptive placement unless the state documents that such a joint placement would be contrary to the safety or well-being of any of the siblings. In the case of siblings removed from their home who are not jointly placed, the law requires reasonable efforts to provide for frequent visitation or other ongoing interaction between the siblings, unless the state documents the visitation or interaction would be contrary to the safety or well-being of any of the siblings.

Strengthen adoption. When children cannot be safely reunited with their birth parents, adoption is the preferred option because it provides children with legal, emotional and relational permanence that comes with full membership in a new family. The federal Adoption and Safe Families Act of 1997 and the Fostering Connections to Success and Increasing Adoptions Act of 2008 emphasizes improving child welfare practice so that children in foster care who cannot be safely reunited with their families have permanent families through adoption as quickly as possible.

Promising Practices

Research and evaluations of federal demonstration programs and initiatives have identified several practices that could promote positive adoption for children in foster care. These strategies include:¹⁰⁵

- Child-specific and targeted adoptive family recruitment efforts, such as website photo listings, recruitment campaigns that reach families that are most likely to adopt available children and in which the children's issues are clearly conveyed, and engaging older youth to identify important people in their lives as prospective permanent families.
- Adequate pre-placement services for children in foster care and for prospective permanent families to prepare them for permanency, including counseling about their expectations for permanent families and information about permanency supports.
- Adequate post-placement services for families and their children to stabilize and support the placements, including financial and medical assistance, counseling and other clinical services, and support groups.

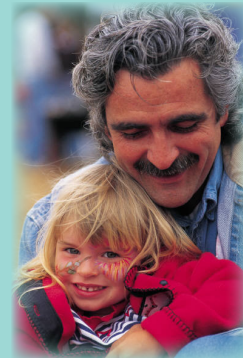
State lawmakers have promoted adoption for children in foster care who cannot be safely reunited with their parents in a variety of ways.

Priority status for potential adoptive parents who are relatives or foster parents. In response to concerns that relatives and foster parents are not consistently provided

The Fostering Connections to Success Act and Adoption

The Fostering Connections to Success and Increasing Adoptions Act of 2008 contains several provisions designed to improve adoption outcomes for children in foster care. The act:

- Extends the Adoption Incentive Program for five years and resets to FY 2007 the base number of adoptions a state needs to finalize to earn an incentive award.
- Increases from \$4,000 to \$8,000 the incentive amount available for an increase in the number of older child adoptions and from \$2,000 to \$4,000 for adoptions of children with special needs younger than age 9.
- Phases in elimination of all income, resource and family structure tests associated with eligibility for federal Title IV-E adoption assistance (including the tests associated with the Aid to Families with Dependent Children program) and begins the phase-in of these criteria in FY 2010 for any child who is age 16 or older at the time the adoption assistance agreement is finalized.
- Requires states to provide information about the federal adoption tax credit to individuals who are adopting or considering adopting a child from foster care.



with opportunities to adopt the children in their care, lawmakers in several states have enacted legislation to facilitate such adoptions. South Dakota, for example, repealed a provision that required a foster parent to care for a child for at least two years before the foster parent could adopt the child.¹⁰⁶ Kentucky expanded the list of relatives with whom a child can be placed for adoption without the approval of the child welfare agency.¹⁰⁷

- California authorizes anyone who has been a child's legal guardian for more than six months to file a petition for adoption if the child is alleged to be abandoned.¹⁰⁸
- In 2001, Missouri amended its adoption statute to provide an optional waiver of the six-month custody requirement in cases where a foster parent is petitioning to adopt his or her foster child.¹⁰⁹ Illinois reduced from one year to six months of time that a foster parent must have had physical custody of a child before a birth parent can execute a consent to adoption by the foster parent.¹¹⁰

Promising Practices

Adoptive family recruitment. Recognizing the vital importance of adoptive family recruitment in ensuring timely adoption

for children in foster care who are waiting for families, some state lawmakers have required stronger child welfare practice.

- Minnesota, for example, enacted legislation that instructs the child welfare agency to diligently recruit adoptive families for all children in foster care who are eligible for adoption.¹¹¹ Minnesota lawmakers authorized the commissioner of the child welfare agency to spend \$16,000 per child on adoptive family recruitment, child and family preparation, and adoption placement services.¹¹²

Pre-placement services. Lawmakers in several states have acknowledged the importance of pre-adoption services in ensuring successful adoptions.

- Illinois, for example, requires that prospective adoptive parents be provided with key information so they can make a fully informed decision about adopting. They must be given the same information as foster parents regarding a child's medical, educational and social history and also be given notice of post-adoption reunion services to facilitate contact between adoptees and their siblings.¹¹³
- Colorado established a three-year pilot project to provide funding for pre- and post-adoption ser-

vices to facilitate adoption of children who have been in foster care for 18 months or more.¹¹⁴

Removing financial and procedural barriers to adoption.

Before passage of the new federal law that will phase in federally funded adoption assistance over time for all children adopted from foster care, state lawmakers already were aware that adoptive families often need financial supports to help meet their children's special needs.

- North Carolina, for example, created a Special Needs Adoption Incentive Fund to remove financial barriers to adoption of children by their foster parents.¹¹⁵
- South Carolina allows the state Children's Trust Fund to award grants to promote the adoption of special-needs children who are in the state custody.¹¹⁶
- Other state lawmakers have addressed some of the procedural barriers to adoption. In both Arizona and Minnesota, state legislators streamlined the adoption home study when the prospective adoptive parent already has been licensed as a foster parent.¹¹⁷

Expedited adoption processes. Given the important role of the court in finalizing adoptions and the importance of adoption finalization for children and families who are waiting for the "final" step in the adoption, lawmakers in some states require courts to give these proceedings priority.

- Colorado lawmakers, for example, require that any hearing concerning a petition for adoption or for relinquishment be given priority on the court's docket.¹¹⁸
- Connecticut, Missouri and Texas also enacted laws to expedite termination of parental rights proceedings and termination of parental rights appeals.¹¹⁹
- Arkansas requires courts to conduct and complete a termination of parental rights hearing within 90 days from the date such petition is filed, unless the hearing is continued for good cause as stated in a written order.¹²⁰
- North Carolina lawmakers sought to remove barriers to adoption by clarifying the basis for court decision making regarding termination of parental rights and expanding the scope of court jurisdiction over adoption proceedings.¹²¹

4. State Legislation: Reducing Racial/Ethnic Disproportionality and Disparate Outcomes for Children of Color in Foster Care

Research indicates that children of color, particularly African-American and Native American children, are more likely to enter and remain in foster care for longer periods of time. Studies also show that, once African-American and Native American children enter the foster care system, disparities exist in exit rates, length of time in foster care, placement stability, and the likelihood of reunification and adoption.¹²² Because of the disproportionately large numbers of children of color in the foster care system, legislative strategies that address racial/ethnic disproportionality hold great promise in achieving safe reductions in a state's foster care population.

Lawmakers in some states have turned their attention to the disproportionate representation of children of color in foster care. Their efforts resulted in implementation of practices and policies to reduce the number of children of color who enter foster care and ensure positive and timely permanent placement for children of color who must enter foster care.

In 2004, the Michigan Legislature required the Department of Human Services to convene an advisory committee to study the disproportionate representation of African-American and other children of color in Michigan's child welfare and juvenile justice systems.¹²³ Advisory committee members, drawn from both the public and private sectors, included legislators and experts in social work, law, psychology and child welfare. The committee examined

the overrepresentation of children of color at each stage of the process, beginning at the point of entry into the child welfare system, and reported its findings and recommendations to the Legislature.¹²⁴

In 2006, the Texas Legislature passed and the governor signed Senate Bill 6, which directed the Texas Health and Human Services Commission and the Department of Family and Protective Services to determine whether child protective services enforcement actions were disproportionately initiated against any racial or ethnic group after accounting for other relevant factors.¹²⁵ The report, which examined data at both the state and regional levels, became the basis for development of a range of practices and policies to address racial/ethnic disproportionality and disparities in the child welfare system.¹²⁶

In 2007, Washington enacted legislation that required the Department of Social and Health Services to convene a Racial Disparity Advisory Committee and instructed the committee to analyze and make recommendations on racial disparity in the child welfare and juvenile justice systems.¹²⁷

As a result of the studies mandated by state lawmakers, Michigan, Texas and Washington now are implementing a range of programs, practices and strategies to safely reduce the number of children of color in foster care.

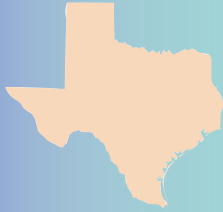
Report to the Michigan Legislature

"This report complies with the legislative mandate included in the Michigan Department of Human Services budget bill for FY 2005. . . In response to that mandate, we convened an advisory committee in 2004 to develop an understanding of the overrepresentation of African American and Native American children in Michigan's child welfare and juvenile justice systems. While we knew overrepresentation was of concern, both the data and information from more than 600 persons convinced us that this is a serious issue in each of Michigan's counties. . . . What we learned through our consultative process is that at every point along the child welfare continuum, African American and Native American children and families are represented in numbers that exceed their relative proportion of the population. Rates of substantiated maltreatment, entry into out-of-home care, and length of stay are higher for children of color than for their white counterparts while family reunification and exit rates are lower. We believe the time is right to initiate changes that will improve outcomes for children and families of color."

Source: Michigan Department of Human Services, *Equity: Moving Toward Better Outcomes for All of Michigan's Children*, 2006; http://www.michigan.gov/documents/DHS-Child-Equity-Report_153952_7.pdf.



Report to the Texas Legislature



Texas' analysis of data as mandated by SB 6 determined that disproportionality existed for African-American and Native-American children. It determined that African-American children

spend significantly more time in foster care or other substitute care, are less likely to be reunified with their families, and wait longer for adoption than Anglo or Hispanic children. Hispanic children are significantly less likely than Anglo children to be removed from the home while Native-American children are significantly more likely. Additionally, African-American families are less likely than Anglo families to receive in-home family services to help prevent child removal in three areas of the state, while Hispanic families are less likely than Anglo families to receive such services.

The remediation plan, published in July 2006, outlined several steps to address disproportionality that have resulted in:

- Reductions in the number of children in foster care settings;
- Doubling of kinship care placements;
- Use of family group decision-making models that include families and kin and are culturally sensitive;
- A substantial increase in the number of families that receive in-home services; and
- According to a Casey Family Programs analysis of Texas data, the disparity in removal rates for African American children in four pilot Texas counties has significantly been reduced since pilot efforts began in 2005.

Sources: Texas Health and Human Services Commission, Department of Family and Protective Services, *Disproportionality in Child Protective Services: Statewide Reform Effort Begins With Examination of the Problem*, 2006; http://www.dfps.state.tx.us/Documents/about/pdf/2006-01-02_Disproportionality.pdf; and Casey Family Programs, *And How Are the Children?* Annual Report, 2009; <http://www.nxtbook.com/nxtbooks/casey/annualreport2008/#/0>.

Report to the Washington Legislature



Some key statewide findings:

- Patterns of disparity were evident at the time of reports to Child Protective Services (CPS) alleging child abuse or neglect. Compared with White children:
 - American Indian children were three times as likely to be referred to CPS.
 - Black children were nearly twice as likely to be referred to CPS.
 - Hispanic children were 1.3 times as likely to be referred to CPS.
- Compared with White children referred to CPS, after referral:
 - American Indian children were 1.6 times as likely to be removed from home and twice as likely to remain in foster care for more than two years.
 - Black children were 1.2 times more likely to be removed from home and 1.5 times more likely to remain in care for more than two years.
 - Hispanic children were no more likely to be removed from home or to remain in care for more than two years.
 - Asian children were no more likely to be removed from home and less likely to remain in care for more than two years.

Source: Washington State Institute for Public Policy, *Racial Disproportionality in Washington State's Child Welfare System*, 2008; www.wsipp.wa.gov/rpt-files/08-06-3901.pdf.

5. Other State Legislative Approaches that Can Strengthen the Child Welfare System

Safely reducing the number of children in foster care requires a well-functioning child welfare system with a strong infrastructure, adequate resources and accountability. Both the federal and state governments have recognized that child welfare systems require a stable, qualified workforce to provide the services needed to prevent unnecessarily placing children into foster care, move children in foster care to permanent families in a timely way, and prevent children's reentry into care. Some state legislatures have targeted funds to bring greater resources to child welfare systems in order to safely reduce the state's foster care population. With a focus on child welfare systems' accountability for positive results for children and families, some state legislatures have established multidisciplinary commissions or oversight/advisory boards to ensure that child welfare agencies are achieving these results.

State Legislative Strategies to Strengthen the Child Welfare System

- Strengthening the Child Welfare Workforce
- Funding for Child Welfare Systems Improvement
- Reinvesting of Savings from Safe Reductions in the Foster Care Population
- Implementing Performance-Based Contracting
- Establishing Multidisciplinary Commissions and Oversight/Advisory Boards

Strengthening the Child Welfare Workforce

The child welfare system is only as good as the people who provide services to children and families and those who manage and direct service delivery. Building a stable and effective workforce continues to be a priority for child welfare agencies nationwide. At both the federal and state levels, attention has focused on improving the child welfare system's organizational culture; managing the workforce; strengthening supervision, recruitment and hiring of qualified staff; and workforce retention. Several states have enacted laws to address qualifications, recruitment, retention, training and compensation of child welfare caseworkers.

- Maryland legislators established a Child Welfare Training Academy, operated by the School of Social Work at the University of Maryland and

the Maryland Department of Human Resources. The academy identifies state-of-the-art skills and knowledge that child welfare workers, foster and kinship care providers, and adoptive parents need to secure safe, permanent and positive results for children in the child welfare system.¹²⁸

- New Jersey legislation that created the New Jersey Task Force on Child Abuse and Neglect requires a Staffing and Oversight Review Subcommittee. The subcommittee reviews staffing levels of the Division of Youth and Family Services in order to develop recommendations and the most effective methods of recruiting, hiring and retaining division staff.¹²⁹
- Oklahoma created a performance-based compensation program for full-time child welfare specialists. A child welfare specialist is eligible for an annual incentive when he or she has an overall rating of "exceeds standards" on the most recent performance evaluation; holds a master's degree in social work, human relations, psychology, sociology, guidance and counseling, juvenile justice or child development; has completed all required department-sponsored field training; and is assigned to the same human services center for 12 consecutive months.¹³⁰

Funding for Child Welfare System Improvement

Some state lawmakers have authorized new funding for child welfare services and supports to better enable the systems to achieve positive results for children and families and, as a result, safely reduce the number of children in foster care.

- New York provides funds to counties for child welfare services through five mechanisms: child welfare services funding in the form of an uncapped state reimbursement of a portion of county expenses for preventive, child protective, adoption, aftercare and independent living services after applying federal funds; a limited foster care block grant, to counties for foster care services; a quality enhancement fund to improve child welfare services and support implementation of the state's Child

and Family Service Review Program Improvement Plan; Community Optional Preventive Services, which supports the Nurse-Family Partnership home visiting program in New York City and two other counties, among other services; and other funding streams that support caseload reduction, home visiting and kinship care. New York attributes the 31 percent reduction in the state's foster care population between 2001 and 2006 to its finance system.¹³¹

- The Hawaii Legislature authorized the judicial branch to establish a federal revenue maximization program for services provided to children and families.¹³²
- Missouri lawmakers created a “Children in Crisis” tax credit for contributions to qualified agencies. By contributing to a qualified Court-Appointed Special Advocate, Child Advocacy Center or Crisis Care Center, Missouri taxpayers help fund services for children who have experienced or are at risk of abuse or neglect. Taxpayers can receive a tax credit for up to 50 percent of the qualified contribution.¹³³

Reinvesting of Savings from Safe Reductions in the Foster Care Population

In the recent survey of public child welfare administrators conducted by the American Public Human Services Association, 60 percent of the responding states and 62.5 percent of the responding counties reported they had experienced a cost savings as a result of caseload reductions.¹³⁴ Nearly 44 percent of the states and 40 percent of the counties reported they had reinvested these savings in prevention and/or permanency services. For example, Connecticut expanded community-based services; Oklahoma implemented a new practice model for prevention services, safety assessments and family team meetings; Maine reinvested savings in wrap-around and family reunification services; and Texas reinvested in permanency resources such as subsidized guardianship and adoption assistance.¹³⁵ When states and counties were able to reinvest their savings from safe reductions in their foster care populations, 75 percent of the states and nearly 59 percent of the counties reported they continued to see fewer entries and re-entries into foster care.¹³⁶

Supported by Evidence Implementing Performance-Based Contracting

Performance-based service contracting has been a key topic of interest for state agencies in recent years. Performance-based contracting typically:

- Emphasizes results related to output, quality and outcomes rather than to how the work is performed;
- Has an outcome orientation and clearly defined objectives and time frames;
- Uses measurable performance standards and quality assurance plans; and
- Provides performance incentives and ties payment to outcomes.¹³⁷

A number of states have implemented performance based contracting for child welfare services, including the following:¹³⁸

- In 1994, the Florida Legislature passed legislation requiring implementation of performance-based contracting for all state-funded programs.
- The Maine Legislature passed legislation in 1994 requiring that, after July 1, 1997, human service contracts awarded by the Maine Department of Human Services must be performance-based.
- The Kansas Department of Social and Rehabilitation Services initiated performance-based contracting in 1997.
- In New Mexico's General Appropriation Act of 2000 for the Department of Health, appropriations were contingent upon the department's inclusion of performance measures in its contracts.
- North Carolina implemented a performance-based approach to adoption services in 1999. Providers are paid percentages of an “average placement cost” at certain milestones; if they do not meet these outcomes, they are not compensated.
- The Oklahoma Department of Rehabilitation Services began its performance contracting system in 1992.
- The Illinois Department of Children and Family Services began performance contracting in 1997 to

improve finding permanent homes for children in foster care.

- Most recently, Washington lawmakers required the Department of Social and Health Services, by Jan. 1, 2011, to consolidate and convert its existing contracts for child welfare services to performance-based contracts that link the contractors' performance to the level and timing of reimbursement for services.¹³⁹

Selected Results of Performance-Based Contracting in Child Welfare

- The North Carolina Division of Social Services increased the number of adoptions from 261 in FY 1993-1994, to 364 in FY 1995-1996, and to 631 in FY 1997-1998.
- The Illinois Department of Children and Family Services increased the number of placements in its Relative Home Care caseload from 2,411 to 5,570 in its first year. In the second year placements reached 9,503. As a result, the relative home care caseload declined by 41 percent.

Establishing Multidisciplinary Commissions and Oversight/Advisory Boards

Several states—including Arkansas, California, Delaware, New York, Minnesota, Utah and Vermont—created multidisciplinary commissions in which the state child welfare agency, the legislature and the courts examine permanency outcomes and other outcomes for children in foster care.

Selected State Multidisciplinary Child Welfare Commissions

- The Arkansas Legislative Task Force on Abused and Neglected Children
- The California Blue Ribbon Commission on Children in Foster Care
- Delaware's Child Protection Accountability Commission
- Minnesota Children's Justice Initiative Advisory Commission
- The New York State Permanent Judicial Commission on Justice for Children
- Initiative on Utah Children in Foster Care
- Vermont's Justice for Children's Task Force

Some states have created new oversight and advisory boards for child welfare.

- California lawmakers enacted the Child Welfare Leadership and Performance Accountability Act of 2006, to establish, among other things, the California Child Welfare Council. The council, an advisory body, considers recommendations to improve child and youth outcomes through increased collaboration and coordination among the programs, services and processes administered by the multiple agencies and courts that serve children and youth in California's child welfare system.¹⁴⁰
- The Connecticut legislature created the Families with Service Needs Advisory Board to monitor progress by the Department of Children and Families in developing services and programming for girls from families with service needs.¹⁴¹
- Rhode Island lawmakers created a Commission on Youth to advise the General Assembly on matters pertaining to young people. Any legislation that concerns youth is brought before the commission before the General Assembly takes action on it.¹⁴²

6. Conclusion

State lawmakers play vital roles in safely reducing the number of children in foster care. Lawmakers have enacted legislation to achieve this critical goal and improve results for children, youth and families. As this report demonstrates, lawmakers in many states actively worked to prevent out-of-home placement, including re-entry into foster care; reduce the time that children remain in foster care; and reduce disproportionality and disparate outcomes for children of color in foster care. Across the country, state lawmakers have fostered the necessary col-

laboration to implement new practices and programs; assess outcomes; strengthen the courts and the child welfare system; and engage the community in achieving safety, permanency and well-being for vulnerable children and youth.

This report provides information on the work of legislatures nationwide to safely reduce the number of children in foster care. It is hoped that state lawmakers will benefit from the thinking and creativity of their colleagues as they continue to work to safely reduce the number of children in foster care.

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