
**THE CHILDREN AND YOUTH SERVICES
DELIVERY SYSTEM IN PENNSYLVANIA**

**REPORT OF THE
ADVISORY COMMITTEE ON
SERVICES TO CHILDREN AND YOUTH**



General Assembly of the Commonwealth of Pennsylvania
JOINT STATE GOVERNMENT COMMISSION

November 2002

The release of this report should not be interpreted as an endorsement by the members of the Executive Committee of the Joint State Government Commission of all the findings, recommendations and conclusions contained in this report.

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The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459) as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.



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TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Joint State Government Commission is pleased to present the report of the Advisory Committee on Services to Children and Youth. This report contains a variety of recommendations and revisions to the Child Protective Services Law, the Juvenile Act and the Administrative Code with official comments, as well as recommended amendments to the Public Welfare Code and the Public School Code.

The recommendations contained in this report represent the consensus of the advisory committee gained after two years of work under the leadership of Frank P. Cervone. On behalf of the General Assembly, I thank the members of the advisory committee for contributing their valuable time and expertise in the considerable effort to develop recommendations to improve the children and youth services delivery system. I commend the advisory committee for its accomplishment and thank other individuals who have assisted the advisory committee throughout the review process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Roger A. Madigan".

Roger A. Madigan
Chair

INTRODUCTION

Senate Concurrent Resolution 97 of 1999 (Printer's No. 1515), adopted December 1, 1999, directed the Joint State Government Commission to establish a legislative task force to study Pennsylvania's children and youth services delivery system and determine whether it is meeting the needs of at-risk children and families. The resolution specified that the initial area of review should be placement services for children who cannot live with their birth family. Recognizing that the children and youth services delivery system implicates services other than those generally associated with placement, the resolution stipulated that additional issues concerning children and youth services be prioritized and addressed accordingly. The resolution further directed that the task force present its findings and recommendations to the General Assembly at the conclusion of the study. The deadline to present the findings and recommendations was extended to November 30, 2002 by Senate Concurrent Resolution 114 of 2001 (Printer's No. 1350), adopted November 19, 2001. See the Appendix for the full text of the resolutions.

The task force consists of four members of the Senate and four members of the House of Representatives, with Senator Charles W. Dent as chair and Representative Julie Harhart as vice chair. The task force held its organizational meeting on April 12, 2000. The resolution authorized the task force to create an advisory committee to assist it in accomplishing the goals of the study. A 46-member advisory committee was created over the course of several months, which consisted of child advocates; private service providers; foster parents; county children and youth administrators; the Deputy Secretary of the Office of Children, Youth and Families, Department of Public Welfare; the Auditor General; the Attorney General; judges; attorneys for children and parents; educators; a pediatrician and others with experience with the children and youth services delivery system. The advisory committee, chaired by Frank P. Cervone, Executive Director of the Support Center for Child Advocates, held its organizational meeting on June 15, 2000.

Because of the scope of the study and the broad range of issues, the advisory committee was divided into the following four subcommittees to review the children and youth services delivery systems.

Services and Issues in Placement - Eleanor Bush, chair
Options Outside of Placement - Susan Dichter, chair

Accountability - Charles Lockwood (resigned October 2001) and Frank P. Cervone, chairs

Structural and Systems Issues - Charles A. Seith and Bernadette Bianchi, co-chairs

The subcommittees were charged with focusing on topics considered salient by the advisory committee members. Each subcommittee began its deliberations on September 20, 2000 and met frequently over the next two years. Subsequently, the subcommittees reported their findings and recommendations to the advisory committee for consideration. This report summarizes the deliberations of the subcommittees and the advisory committee and sets forth how the children and youth services delivery system may be improved. Unless otherwise noted, the recommendations in this report were formulated by the subcommittees and approved by the advisory committee.

At its November 20, 2002 meeting, the task force authorized the release of this report and recommended that the task force be reconstituted in the next legislative session in order to hold public hearings on the findings and recommendations in this report.

The report is divided into sixteen separate sections by general topics. The order of these sections does not signify the importance of the topics, nor does it represent the amount of time and attention dedicated to the topics by the advisory committee.

While this report represents the consensus of the subcommittees and the advisory committee gained after numerous meetings from September 2000 to October 2002, it does not necessarily reflect unanimity among the members on each individual recommendation. In addition, inclusion of any finding, recommendation or conclusion in this report does not necessarily reflect the endorsement of the task force or its members.

The proposed legislation is replicated in a separate section near the end of this report, although it is also contained within the individual sections. The comments to the proposed statutory language may be used to determine the intent of the General Assembly.¹

The following summarizes the deliberations of the four subcommittees.

Services and Issues in Placement

The Subcommittee on Services and Issues in Placement discussed the broad topics of older children in placement, education for children in placement,

¹See 1 Pa.C.S. § 1939.

health care for children in placement, out-of-state and long-distance placements, kinship care, foster parents, assessments and evaluations, concurrent planning, improving access to services, the need to cross-train caseworkers in various disciplines to better identify a family's needs for services, drug and alcohol addiction treatment and statements of principles of care for children in out-of-home care, parents of such children and foster parents.

With respect to older children in placement, the subcommittee focused on service planning, improved communications with such children and providing additional information to them, issues regarding dependent children who are parents, recruitment of foster families willing to accept dependent teenagers, enhancing the court's oversight role in children and youth services, cultural preservation and enhancement, driving, health care, post-secondary education, placement options and data collection.

The subcommittee considered various education issues regarding children in placement. Subcommittee members sought ways to improve communication and cooperation between the education system and the children and youth services delivery system. In addition, the subcommittee focused on the issues of prompt enrollment procedures, the need for uniform enrollment and withdrawal forms, assignment to the appropriate school program, the transfer of school records, allowing children to remain in their current school after either placement or reunification with their family, parent and caregiver involvement in school matters, training for foster parents regarding the education system, special education issues and data collection.

Because foster parents play a vital role as caregivers within the children and youth services delivery system, the subcommittee specifically addressed such foster parent issues as improved access to information regarding the foster child, participation in court hearings, support by county children and youth services agencies, the need for a network of experienced foster parents to serve as mentors, cost of living adjustments for foster parent reimbursements, improved procedures regarding situations where there are allegations of abuse by the foster parents and improved recruitment and retention strategies.

Finally, the subcommittee reviewed current statutes and proposed legislation regarding access to drug and alcohol treatment and highlighted the importance of receiving drug and alcohol treatment services to many families involved with the children and youth services delivery system.

Options Outside Placement

The Subcommittee on Options Outside Placement focused primarily on prevention services designed to prevent child abuse and neglect, juvenile dependency, the need for out-of-home care, juvenile delinquency, truancy,

dropping out of school and violence. In emphasizing the need for prevention efforts, the subcommittee discussed how to develop a strategy for reducing the number of child placements, how to preserve the family unit and facilitate reunification, where appropriate, and how to improve permanency planning for children and families. The subcommittee's goal was to develop a framework of family outreach and enhancement programs to help children and families before their difficulties become acute and require more intensive services. The subcommittee reviewed statistics and background information regarding key indicators of child well-being, contributors to maltreatment, the effects of maltreatment and the costs to society, child welfare, child placements and annual expenditures regarding such issues as juvenile justice, incarceration and government assistance.

In analyzing the subject of options outside placement, the subcommittee gathered information from individual subcommittee members and guest speakers including adolescent consumers, parents, caseworkers and representatives from many public and private sector organizations that develop, coordinate and oversee programs and services for children and families. As part of its charge, the subcommittee reviewed specific prevention programs and administrative and fiscal challenges regarding the development and implementation of prevention services.

As a result of its deliberations, the subcommittee discussed the need for an Office of Prevention Services to segregate funds for prevention services and oversee the coordination and delivery of prevention services, which are currently scattered among many departments and agencies. The subcommittee also supported the establishment of county prevention services coordinators to address prevention efforts on a local level, block grants to counties for prevention services and a competitive request for proposal process for public and private agencies and public/private partnerships to submit proposals to receive block grant funds to develop and implement local prevention services.

Finally, the subcommittee discussed the topics of independent living programs, medically fragile children, subsidized permanent legal custodianship, services for incarcerated parents, faith-based institutions, services after a child has been placed for adoption and post-adoption services.

Accountability

The Subcommittee on Accountability focused largely on issues pertaining to statewide performance evaluations, local case monitoring, confidentiality, judicial training and rotation and open court proceedings.

It is anticipated that Pennsylvania, along with many other states, will be required to submit a performance improvement plan to the federal government

based on the Children and Family Service Review performed by the Department of Health and Human Services. In response, the subcommittee recommended that the development of an ongoing systematic statewide performance review would help ensure that the Commonwealth's children and youth services delivery system continues to meet the needs of children and families.

Local case monitoring is an important function handled by multidisciplinary teams (MDTs) and investigative teams in cases where criminal charges are likely. The subcommittee developed a number of recommendations to improve the performance of MDTs by providing guidance and training at the state level. The subcommittee determined that local investigative teams and the existing statewide Medical/Legal Advisory Board on Child Abuse are effective if they are utilized to their potential and properly coordinated.

The subcommittee favored the creation of a children's ombudsman, an autonomous entity, that would, among other things, receive, process and investigate complaints against state and county agencies within the children and youth services delivery system. It was believed that the creation of this entity would greatly enhance accountability within the system.

With respect to foster parents, the subcommittee addressed the need to improve the formalized training for foster parents, update informational manuals for foster parents and review the provider contracts of county agencies and private providers to ensure that disclosure of information to foster parents is not unnecessarily restricted.

In reviewing information regarding confidentiality, the subcommittee noted that the Child Protective Services Law (23 Pa.C.S. Chapter 63) includes a detailed provision governing access to Department of Public Welfare and county agency records relating to abuse and neglect. The subcommittee reviewed various aspects of the law and discussed possible amendments, including limited disclosure of information to non-mandatory reporters of abuse, disclosure of essential information to foster parents and access by the Auditor General for official audits.

In discussing how to provide public accountability of the children and youth services delivery system and improve the handling of dependency cases by the courts, attorneys and county agencies, the subcommittee studied the concept of opening dependency court proceedings to the public. Information on opening such hearings was gathered from various sources, including other states that have documented their experiences with open hearings. While acknowledging certain reservations about opening the hearings, the subcommittee ultimately decided to recommend that dependency proceedings be presumed to be open to the public, subject to closing by the presiding judge or master upon a finding of exceptional circumstances.

Judicial training and assignments was another topic addressed by the subcommittee. The subcommittee felt that well-trained and experienced judges are best suited to ensure accurate decisions in matters related to child safety and welfare. Accordingly, it recommended that judges assigned to conduct proceedings under the Juvenile Act (42 Pa.C.S. Chapter 63) retain the assignment for a period of at least three years and that judges be encouraged to preside over as many child welfare cases as possible rather than having court masters handle the majority of those cases. Moreover, the subcommittee believed that improved training of masters, attorneys and guardians ad litem, as well as judges, will enhance the operation of court proceedings.

Finally, the subcommittee discussed the need for an improved reporting system for general protective services cases and the manner in which such cases are reported. To that end, it reviewed the components of the former Pennsylvania Automated Child Welfare Information System (PACWIS).

Structural and Systems Issues

The Subcommittee on Structural and Systems Issues began its deliberations by identifying the systemic challenges within the children and youth services delivery system. This review included an analysis of issues regarding coordination of services and information, continuity and consistency in service planning and delivery, community awareness, recruitment and retention of caseworkers and staff, regulatory requirements and funding difficulties, including the needs-based budgeting process and categorical funding streams. The subcommittee approached its task from the standpoint that the children and youth services delivery system in the Commonwealth is frequently complicated by the multiplicity and complexity of problems faced by children and families, the fragmentation of services among various service providers in the public and private sectors and the diversity of funding streams designated for support of these services. Consequently, access to services needed by children and families is restrictive and confusing and often poorly coordinated. The subcommittee also accepted the premise that comprehensive treatment beginning at the point of initial assessment is more effective than the piecemeal delivery of services that often occurs at the present time. To that end, the subcommittee believed that the focus should be on a holistic approach to service delivery.

Recruitment and retention of caseworkers and staff occupied a great deal of time for the subcommittee. The subcommittee discussed many issues that lead to staff turnover and dissatisfaction, including low salaries, concerns regarding personal safety, lack of professional esteem, paperwork and regulatory requirements, heavy caseloads, unrealistic expectations and the complexity of case assignments. The subcommittee was cognizant that workplace satisfaction must be a focal point, because having qualified, experienced and motivated

individuals involved in the children and youth services delivery system is directly related to achieving quality outcomes for children and families.

With respect to funding, the subcommittee recognized that certain aspects of current funding mechanisms create obstacles to the effective and efficient delivery of services. The subcommittee identified several of these obstacles as the inadequacy of current funding levels to cover the full costs of mandated care, restrictive categorical funding streams and the confusing nature of funding, which is exacerbated by the mix of federal, state and local dollars.

In order to improve the children and youth services delivery system, the subcommittee emphasized the need for cross-systems coordination and developed a statutory framework to create a commission at the state level, composed of representatives from various disciplines that provide services to children and families. The role of the commission would be to develop and oversee efforts to provide coordinated services and programs to children and families when such services or programs are under the jurisdiction of more than one department or entity in the Commonwealth. In addition, the subcommittee supported the creation of county cross-systems coordinators who would address similar issues at the local level. The coordination would include community collaborative boards and private service providers and encompass the following disciplines: drug and alcohol addiction treatment and prevention, mental health/mental retardation services, education, housing, job training, child care, managed care, juvenile justice, health care, county assistance, children and youth services, and the court system.

SUMMARY OF RECOMMENDATIONS

The advisory committee reached consensus on the following recommendations.

Information to Children in Placement

- (1) Develop a check-off sheet to be used by caseworkers to ensure that certain information is provided to children in placement and that the needs of children are being met
- (2) Ensure that teens in placement are aware that they may stay in the children and youth services delivery system until age 21 under certain circumstances
- (3) Ensure that teens in placement who are parents understand what they must do to keep their children and that they do not have to leave placement to be with their children

Treatment of Children

- (1) Ensure that children can maintain their cultural identity by placing children in, or as close as possible to, their own neighborhood whenever appropriate
- (2) Amend the Public Welfare Code to ensure that the Department of Public Welfare does not discriminate against children because of their age in providing adequate services to children who need them
- (3) Develop a statement of principles regarding children in out-of-home care

Education

- (1) Develop uniform enrollment and withdrawal forms to facilitate a child's transfer from one school district to another
- (2) Clarify the specific information that a school must have before a child is allowed to enter the school building for the first time

- (3) Ensure that children are assigned to the appropriate program when enrolled in school
- (4) Ensure that school records are transferred in a timely manner to a child's new school
- (5) Ensure that the evaluation to determine whether a child is disabled and needs special education services is completed within the required 60-day timeframe
- (6) Develop a pool of surrogate parents to act in the Individualized Education Program (IEP) process
- (7) Amend the Public School Code to ensure that education dollars follow the child in cases where it is best for the child to remain in his or her current school regardless of whether placement or reunification causes the child to move outside his or her school's geographic area
- (8) Amend the Public School Code to permit the transportation of a child in out-of-home placement to a public school outside the child's home district
- (9) Require school districts to notify the child's parents of the opportunity to be involved in parent/teacher conferences
- (10) Require caseworkers to keep the school district informed of the status and address of parents of children in placement
- (11) Require caregivers to attend a certain number of hours of training on the education system
- (12) Ensure that every effort is made not to treat children in placement differently from the other children in school
- (13) Improve coordination and cooperation between the education system and the children and youth services delivery system, particularly regarding the unique needs and concerns of children in placement and the authority over decision-making regarding the child

Foster Homes and Foster Parents

- (1) Emphasize the need for foster homes for older children, provide the necessary supports and funding for such homes and institute a targeted recruitment campaign for foster parents who are willing to meet the needs of older children in placement

- (2) Recruit foster homes that will accept both the dependent child and his or her child and provide higher foster care rates for foster parents in those homes
- (3) Actively recruit foster parents to serve within communities where children need out-of-home care
- (4) Train foster parents in issues relating to the children's culture and make foster parents aware of appropriate local ethnic youth groups
- (5) Establish a goal that the Department of Public Welfare develop the capacity in its foster care system so that at any given time foster care homes are available for at least 75 percent of the children who are 13 years of age or older for whom foster care placement is appropriate
- (6) Increase the per diem foster care rate to reflect the additional costs incurred for the care of older children
- (7) Encourage foster parents to obtain the training necessary to serve as surrogate parents
- (8) Provide information to foster parents regarding a child before the child's placement so that the foster parents can make an informed decision regarding whether they can provide the necessary care for the child
- (9) Acknowledge foster parents as part of the team helping the child and family
- (10) Notify foster parents of all the services to which they are entitled
- (11) Provide training for foster parents regarding the children and youth services delivery system and what happens if an allegation of abuse is made
- (12) Establish a network of experienced foster parents to serve as mentors to newer foster parents
- (13) Establish a consistent liaison within the county agency for foster parents, so that care of the child may remain as consistent as possible
- (14) Institute a cost of living adjustment for the amount of funds provided to foster parents
- (15) Develop a general recruitment campaign for foster parents

- (16) Direct the Department of Public Welfare to update the informational manual for foster parents
- (17) Improve training programs for foster parents
- (18) Develop a statement of principles regarding foster parents

Health Care

- (1) Establish funding to ensure that physicians and dentists are available on-call to examine and provide medical and dental care to children in placement
- (2) Require examinations for a child prior to placement so that information regarding the child's health can be provided to the foster parent and the foster parent can be better prepared to provide appropriate care for the child
- (3) Direct the Department of Public Welfare to extend Medicaid eligibility to young people who leave foster care at age 18 until they reach age 21

Placement Resources

- (1) Increase the capacity for in-state placements for children who need special placements
- (2) Provide children in kinship care with increased communication with and access to their parents and siblings when appropriate

Administration

- (1) Require continuing training for caseworkers regarding concurrent planning for children in placement
- (2) Ensure meaningful re-evaluation of a child's initial placement after six months
- (3) Improve recruitment and retention techniques regarding caseworkers and staff within the children and youth services delivery system
- (4) Require workers in the children and youth services delivery system to be cross-trained in various disciplines so that they are better able to identify the many issues affecting a family at the time of the family's initial assessment

Service Delivery

- (1) Encourage the delivery of multiple services for children and families in one location
- (2) Require the children and youth services delivery system to provide supportive services (e.g., transportation and child care) to enable families to participate in substantive services (e.g., drug and alcohol addiction treatment)
- (3) Establish county agency satellite offices closer to the populations that they serve to encourage families to participate in services

Parents

- (1) Treat parents with respect and recognize them as part of the team that helps the family
- (2) Offer respite care to parents who need time away from their children in order to relieve stressful situations
- (3) Develop a statement of principles regarding parents of children in out-of-home care

Drug and Alcohol Addiction Treatment

- (1) Provide meaningful reform regarding the managed care industry with respect to drug and alcohol addiction treatment
- (2) Require the Attorney General to use its investigative powers to aid enhanced enforcement of Act 106 of 1989
- (3) Direct the Department of Public Welfare to establish a method to provide assessment and treatment for alcohol and drug addiction problems for children and parents through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program
- (4) Require the Department of Public Welfare to provide an annual report to the General Assembly on the provision of alcohol and drug abuse screening, counseling and addiction treatment through EPSDT
- (5) Require the Auditor General to audit the provision of drug and alcohol addiction treatment services through the EPSDT and CHIP programs and provide the resources necessary for the performance of the audits

- (6) Send a resolution to Congress urging a change in the interpretation of the Institution for Mental Diseases (IMD) exclusion to allow Federal Medicaid coverage for drug and alcohol addiction treatment of individuals, including addicted women, addicted women who are pregnant and addicted women and their children in certain treatment facilities
- (7) Direct the Department of Public Welfare to apply for a waiver from certain Social Security Act requirements to establish a demonstration project under which drug and alcohol addiction treatment can be provided to family members while providing day care services for their children
- (8) Maximize federal participation in the provision of drug and alcohol addiction treatment by requiring the Department of Public Welfare to seek ways to use Temporary Assistance for Needy Families (TANF) funds to pay for treatment
- (9) Direct the Department of Public Welfare to add the basics of drug and alcohol addiction to the CORE training for caseworkers and supervisors
- (10) Ensure that a certified addictions counselor is located in or readily available to each county agency

Complaint Mechanisms

- (1) Create a statewide children's ombudsman to receive, process and investigate complaints regarding the children and youth services delivery system
- (2) Create a county complaint resolution process regarding protective services

Monitoring

- (1) Institute an ongoing, systemic review of child protective services in Pennsylvania
- (2) Improve the practices of multidisciplinary teams, including the review of cases
- (3) Increase the use of investigative teams at the county level and monitor county agency compliance

- (4) Increase awareness and use of the Medical/Legal Advisory Board on Child Abuse

Confidentiality

- (1) Continue consideration of the topics of confidentiality and information sharing
- (2) Acknowledge the receipt of information from non-mandatory reporters of child abuse and explain the system to them
- (3) Broaden the disclosure of confidential information to foster parents
- (4) Include the Auditor General among those individuals entitled to receive information in confidential reports
- (5) Permit the Department of Public Welfare, county agencies and providers of child-care services to disclose confidential information only to the extent necessary to respond to specific findings of an audit of their practices

Court Practice

- (1) Call upon the Pennsylvania Supreme Court to promulgate rules regarding the following:
 - (a) Assigning judges to conduct proceedings under the Juvenile Act for a period of no less than three years
 - (b) Developing a comprehensive training program for judges, masters, child welfare agency attorneys, parents' attorneys and guardians ad litem
 - (c) Adopting practice standards for attorneys handling dependency cases
 - (d) Encouraging judges, rather than masters, to preside over as many child welfare cases assigned to them as possible
- (2) Establish a presumption for open dependency proceedings to the public, subject to closing in whole or in part by the presiding judge or master²
- (3) Amend the Juvenile Act to clarify that a child does not need to be adjudicated dependent simply because the child's teenage parent is dependent

²Although the advisory committee generally reached consensus on the issue of open dependency proceedings, several members raised concerns regarding the issue and how it may impact on children and families.

- (4) Amend the Juvenile Act to enhance the court's oversight role in cases involving dependent children in terms of assuring appropriate service delivery and the children's understanding of the processes within the children and youth services delivery system

Prevention Efforts

- (1) Establish an Office of Prevention Services to develop, coordinate and oversee prevention services across Pennsylvania
- (2) Establish a prevention services board comprised of representatives from various departments and agencies to assist in improving the delivery of prevention services across Pennsylvania
- (3) Designate prevention services coordinators in each county to develop, coordinate and oversee local prevention services
- (4) Develop prevention services block grants for the counties to distribute to local entities through a request for proposal process

Cross-Systems Approaches

- (1) Establish a time-limited Commission for Cross-Systems Coordination comprised of representatives from various departments and agencies to develop and oversee a cross-systems approach regarding services and programs for children and families, when such services or programs are under the jurisdiction of more than one department or agency
- (2) Establish county cross-systems coordinators and county boards to develop and oversee local cross-systems approaches

Data Collection

- (1) Require county agencies to collect specific information regarding older children in the children and youth services delivery system and the education of children in placement and provide it to the Department of Public Welfare so that meaningful reports can be generated
- (2) Improve the data collection system for cases involving general protective services and child protective services

PLACEMENT SERVICES

The Subcommittee on Services and Issues in Placement used the following questions to help focus their discussions regarding improvements to the children and youth services delivery system.

- (1) What would the ideal system be like?
- (2) What is needed to achieve the ideal as envisioned?
- (3) What features of the existing system facilitate reaching the ideal?
- (4) What are the obstacles to reaching the ideal?
- (5) How can the obstacles be overcome?
- (6) Does any recommendation to improve the system require legislation?
- (7) If legislation is not required, what kind of intervention is required?

The subcommittee developed a method of addressing issues by asking the following, or similar, questions.

- (1) What do children, parents, foster parents, caseworkers and others involved in the system have the right to expect from the system?
- (2) What placement options and system capacity are available for children?
- (3) What data should be collected so that meaningful reports can be generated by the Department of Public Welfare (DPW) to promote accountability and inform the planning process?

Unless otherwise noted, the recommendations in this chapter were formulated by the subcommittee and approved by the advisory committee.

Older Children in Placement

The subcommittee noted that older children are generally underserved by the children and youth services delivery system. The impact of system failures is easily seen in this age group, as, for example, older children who leave the system often become homeless. Therefore, one of the subcommittee's main focuses was on older children in placement, including the following topics.

- (1) Service planning
- (2) Culture
- (3) Driving

- (4) Health care
- (5) Post-secondary education
- (6) Placement options
- (7) Data collection

Service Planning

Older children in placement have the right to expect service planning that is focused on their transition to adulthood. To facilitate this, DPW should develop a check-off sheet to be used by the caseworker to ensure that certain information is provided to the child and that the needs of the child are being met. The following areas should receive particular attention.

- (1) Mental health/mental retardation issues
- (2) Drug and alcohol addiction issues
- (3) Education and tutoring
- (4) Job training
- (5) Domestic violence prevention training
- (6) Sex and sexuality education
- (7) Parenting training for teens who are parents
- (8) Ensuring that applications are made for Supplemental Security Income (SSI) and other public benefits for which the child may be eligible
- (9) Military registration for males

Under current law, children may stay in the system until age 21 under certain circumstances,³ but many children are unaware of this fact. Caseworkers should be required to explain this to teens in placement, and the court should make certain that teens in placement understand this.

Dependent teens in placement who are parents need to be told by their caseworkers what they must do to avoid having their children taken from them. Their caseworkers must also ensure that they understand that they do not have to leave placement in order to be with their own children.

The children and youth services delivery system should recruit foster homes that will accept both the dependent child and his or her child. Higher

³“Child” is defined in 42 Pa.C.S. § 6302 as an individual who:

- (1) is under the age of 18 years;
- (2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years; or
- (3) was adjudicated dependent before reaching the age of 18 years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of 21 years.

foster care rates should be provided for homes that are willing to take a child adjudicated dependent along with his or her child. A shared family care model might be followed to provide foster care for dependent teens and their children. Under a shared family care program, an entire family is placed in the home of another family, which acts as a mentor to the placed family and works with various professionals to help the placed family achieve healthy independence. Several shared family care programs have been started in the United States. For information on the experiences of several shared family care programs in California and Colorado, see *Annual Report on Shared Family Care: Progress & Lessons Learned (June 2001 to May 2002)*, which was published by the School of Social Welfare at the University of California, Berkeley and is available at <http://ist-socrates.berkeley.edu/~aiarc/projects/sfc2002annual.pdf>. For a comparison of seven shared family care programs (including A New Life, based in the R.W. Brown Community Center in Philadelphia), see “Shared Family Care: A Comparative Look at Seven Programs,” which is available at <http://ist-socrates.berkeley.edu/~aiarc/projects/comparativechart.htm>.

The Juvenile Act (42 Pa.C.S. Chapter 63) should be amended to clarify that a child does not need to be adjudicated dependent simply because the child’s teenage parent is dependent. Being the child of a dependent child is not listed in the definition of “dependent child,”⁴ but this apparently does not prevent these children of dependent children from automatically being adjudicated dependent in some jurisdictions.

⁴“Dependent child” is defined in 42 Pa.C.S. § 6302 as a child who:

(1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals. A determination that there is a lack of proper parental care or control may be based upon evidence of conduct by the parent, guardian or other custodian that places the health, safety or welfare of the child at risk, including evidence of the parent’s, guardian’s or other custodian’s use of alcohol or a controlled substance that places the health, safety or welfare of the child at risk;

(2) has been placed for care or adoption in violation of law;

(3) has been abandoned by his parents, guardian, or other custodian;

(4) is without a parent, guardian, or legal custodian;

(5) while subject to compulsory school attendance is habitually and without justification truant from school;

(6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parent, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;

(7) is under the age of ten years and has committed a delinquent act;

(8) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (6);

(9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6); or

(10) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

Section 6351(f) of the Juvenile Act should be amended as follows to enhance the court's oversight role in cases involving older dependent children. While the permanency hearing might appear to be late in the process to address these issues, the advisory committee decided that such was not the case, as the intent of this amendment is to verify that casework practice includes explaining these issues to the child.

Proposed Amendment to 42 Pa.C.S. Chapter 63 (Juvenile Act)

§ 6351. Disposition of dependent child.

* * *

(f) Matters to be determined at permanency hearing.--At each hearing, the court shall:

* * *

(8) determine the services needed to assist a child who is 16 years of age or older to make the transition to independent living; [and]

(9) if the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the home or to preserve and reunify the family need not be made or continue to be made, determine whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

* * *

(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's home within the time frames set forth in the permanency plan[.];

(10) if the child is 16 years of age or older, determine whether the following are included in the service planning for the child and whether they have been addressed by the caseworker working with the child:

(i) mental health and mental retardation issues;

(ii) drug and alcohol addiction issues;

(iii) education and tutoring needs;

(iv) job training;

(v) domestic violence prevention training;

(vi) sex and sexuality education;

(vii) parenting training if the child is a parent;

(viii) applying for Supplemental Security Income and other public benefits for which the child may be eligible; and

(ix) if the child is male, military registration;

(11) if the child is 16 years of age or older, determine whether the child understands that he may remain in the children and youth services delivery system until age 21 if he, before reaching the age of 18 years, requests the court to retain jurisdiction until he reaches the age of 21 years so that he may continue a course of instruction or treatment; and

(12) if the child is a parent, determine whether the child understands that:

(i) he does not need to leave placement in order to be with his child;
and

(ii) his own status as a dependent child is not a reason for the court to adjudicate his child dependent.

In addition, in order to emphasize the importance of providing services to older children in placement, section 701 of the Public Welfare Code (62 P.S. § 701) should be amended so that it reads as follows.

The department shall assure within the Commonwealth the availability and equitable provision of adequate public child welfare services for all children who need them regardless of religion, race, settlement, residence, age or economic or social status.

Culture

All children in placement - but especially older children - have the right to maintain their cultural identity. The child's placement should be in, or as close as possible to, his or her own neighborhood whenever appropriate. Also, the children and youth services delivery system should actively recruit foster parents to serve within communities in order to better serve children by fostering a feeling of "community ownership" in caring for children. Finally, foster parents should be trained in issues relating to the child's culture, including food and grooming, and should be made aware of appropriate local ethnic youth groups.

Driving

Many children who voluntarily leave the children and youth services delivery system when they reach 18 years of age cite not being able to drive while in placement as the reason for leaving. The subcommittee discussed this issue at length and originally decided that when children in placement reach the age at which they could learn to drive if they had access to a car, being in placement should not keep them from driving. The subcommittee noted that the children need insurance coverage to be able to drive once they have a driver's license and agreed that foster parents should not be expected to provide this insurance coverage and should not be held liable for accidents involving their vehicles when the foster child is driving. The subcommittee considered recommending that the General Assembly mandate the creation of a fund to provide insurance for children in placement whose parents cannot afford to insure them. However, the advisory committee did not approve this recommendation.

Because driving is a necessary skill for most adults, the subcommittee considered recommending that cars be made available for the use of older children in placement. The subcommittee also suggested that a child who has a driver's license and can afford a car should be allowed to own, possess and operate one (with appropriate insurance and registration) in any placement setting. The advisory committee did not reach consensus on these recommendations.

Health Care

Youth aging out of foster care in Pennsylvania currently qualify for Medicaid only if they meet the income guidelines for adults under the age of 21. As a result, young people who are employed full-time but do not receive medical benefits from their employers often go uninsured. Youth who pursue post-secondary education can qualify for Medicaid benefits while full-time students, but if employed full-time during summer breaks, their Medicaid benefits are lost and must be applied for again the following year. Frequently, this lack of medical coverage means that youth do not receive necessary medical care and often precipitates the discontinuation of therapeutic and psychiatric services at the time of leaving the foster care system - perhaps when these support services are needed most.

The Foster Care Independence Act of 1999⁵ amended the Social Security Act and created an optional Medicaid eligibility group for young adults leaving foster care. Under the Act, a state may extend Medicaid eligibility to young people who leave foster care at age 18 until they reach 21 years of age, without regard to income. In order to provide health care coverage for these young adults as they move from dependence to independent living, DPW should extend Medicaid eligibility to them.

Post-Secondary Education

The subcommittee noted that child support case law holds that, absent an agreement, divorced parents are not required to pay for their child's post-secondary education.⁶ Nevertheless, it recommended that the General Assembly establish a fund for post-secondary education costs for children in foster care. The advisory committee suggested that the fund be established only for children who have been adopted out of foster care; however, it did not reach consensus on this issue. See the section "Post-Secondary Education" in the chapter entitled "Additional Issues."

⁵Public Law 106-169 was signed into law on December 14, 1999.

⁶See *Curtis v. Kline*, 666 A.2d 265 (Pa. 1995) and *Blue v. Blue*, 616 A.2d 628 (Pa. 1992).

Placement Options and Funding

Many older children are placed in residential care simply because individual foster care homes are not available for them. Foster parents often have an unrealistically negative perspective of caring for older children which keeps them from offering their care to teenagers. Therefore, greater attention should be given to developing foster care homes for older children and providing foster parents within those homes with necessary supports and funding. A targeted recruitment campaign, which includes educating people about the realities of older children and their needs, should be established.

A goal for the availability of homes for the placement of older children should also be established. Accordingly, the Child Protective Services Law (23 Pa.C.S. Chapter 63) should be amended as follows:

Proposed Amendments to 23 Pa.C.S. Chapter 63 (Child Protective Services)

§ 6365. Services for prevention, investigation and treatment of child abuse.

(a) Instruction and education.--Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(a.1) Foster care homes for older children.--Each county agency shall develop the capacity in its foster care system so that at any given time foster care homes are available for at least 75% of the children who are 13 years of age or older and for whom foster care placement is appropriate.

* * *

§ 6375. County agency requirement for general protective services.

* * *

(f) Types of services.--Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(f.1) Foster care homes for older children.--Each county agency shall develop the capacity in its foster care system so that at any given time foster care homes are available for at least 75% of the children who are 13 years of age or older and for whom foster care placement is appropriate.

* * *

The children and youth services delivery system must recognize that caring for children is a full-time commitment from foster parents and provide adequate funds for that care. Some states have graduated rates that are provided to foster parents depending on the child's age, with more money provided for the care of teenagers than for younger children. While the per diem rate foster parents receive is intended to cover costs similar to those that would arise if the child were living at home, such as transportation to activities and school lunches, there are costs for which foster parents feel they should be reimbursed in addition to the per diem rate. For example, a foster parent might be caring for two foster children, one who is 16 and one who is 15. If the county agency⁷ requires the 16-year-old child to work during the summer, and the 15-year-old child stays home all summer, the foster parent might feel entitled to receive more funds for the older child because of the added transportation costs of driving the child to and from work. Therefore, the rates of funds provided for the provision of foster care to a child should reflect the additional costs incurred for care as a child ages.

Data Collection

The following information regarding older children in the children and youth services delivery system should be collected by each county agency and sent to DPW, so that the department can prepare meaningful reports about the system.

- (1) The child's age upon leaving the system
- (2) The reasons why the child voluntarily left the system
- (3) The child's living arrangement and what the child was doing when the case was closed (for example, living with a former foster parent and participating in a federally funded Independent Living Program, ran away and whereabouts unknown, planned reunification with family or living with an adoptive parent and pursuing education or job training)

⁷“County agency” is defined in the Child Protective Services Law at 23 Pa.C.S. § 6303(a) as “The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.”

Education

The Subcommittee on Services and Issues in Placement noted that the education of children in out-of-home placement often suffers because the education system and the children and youth services delivery system generally do not communicate well with each other. The subcommittee concluded that children in placement have the right to certain expectations regarding public education. Accordingly, it discussed the following topics.

- (1) Prompt enrollment
- (2) Assignment to the appropriate program
- (3) Transfer of records
- (4) Special education
- (5) Continuity of school and education
- (6) Parent involvement
- (7) Caregiver involvement
- (8) Different treatment of children in placement
- (9) Cooperation between the education system and the children and youth services delivery system
- (10) Data collection

For additional information regarding the education of children in placement, see *Lost in the Shuffle Revisited: The Education Law Center's Report on the Education of Children in Foster Care*, which was published by the Education Law Center in January 2002 and is available at <http://www.elc-pa.org>.

Prompt Enrollment

To facilitate the prompt school enrollment of a child in out-of-home placement, the Department of Education should develop a uniform enrollment form for all school districts to use. A uniform withdrawal form would also aid prompt enrollment in the case of a child being transferred to another school because of out-of-home placement.

The Department of Education should also set the policy that while a school needs to have certain information regarding a child, such as a list of individuals who may have contact with the child, absence of such information will not keep the child from entering school. The policy should also state that the school must have only the following items before a child is allowed to enter the school building for the first time.

- (1) The child's immunization information
- (2) The sworn statement required by Act 26 of 1995, which amended the Public School Code of 1949, regarding whether the child was suspended or expelled from any school for an offense involving

weapons, alcohol or drugs, for willful infliction of injury, or for any act of violence on school property⁸

- (3) A certified copy of the child's disciplinary record⁹
- (4) The child's Individualized Education Program (IEP), if applicable

Assignment to the Appropriate Program and Transfer of Records

Children should be assigned to the appropriate program when enrolled in school so that they can achieve to the best of their ability. However, this often does not occur. When a child is transferred to a different school because of placement in out-of-home care, having the child's school records collected and transferred to the receiving school in a timely fashion will help ensure prompt assignment to the appropriate program.

Therefore, in cooperation with DPW, the Department of Education should establish a certain timeline for the transfer of records in the case of a planned placement of a child in out-of-home care so that a timely transfer of educational records between schools can be made and the child can be quickly assigned to the appropriate program.¹⁰

DPW should develop a certain timeline for county agencies to follow in planning the placement of a child in foster care to ensure that the sending school has the lead-time necessary for gathering the child's records prior to transfer to the new school.

Special Education

To ensure that children in out-of-home placement receive appropriate education services as soon as possible, the evaluation to determine whether a child is disabled and needs special education services should be completed within the required 60-day timeframe.¹¹ As required by federal regulation, the school should appoint a surrogate parent for the child to participate in the Individualized Education Program (IEP) process when the parent is unknown or cannot be found or the child is a ward of the state.¹² A surrogate parent would be needed, for

⁸24 P.S. § 13-1304-A.

⁹24 P.S. § 13-1305-A. Note that the sending district has 10 days from receipt of the receiving district's request to transmit the record.

¹⁰Note that the education regulations, found in 22 of the Pa. Code, do not address the transfer of records.

¹¹22 Pa. Code § 14.123(b) provides that "the initial evaluation shall be completed and a copy of the evaluation presented to the parents no later than 60 school days after the agency receives written parental consent."

¹²34 C.F.R. § 300.515 provides for surrogate parents as follows:

(a) General. Each public agency [responsible for providing education to children with disabilities] shall ensure that the rights of a child are protected if--

example, when parental rights to the child have been terminated but the child has not yet been adopted.

Each school district should develop a pool of surrogate parents to act in the IEP process, and the children and youth services delivery system should encourage foster parents to obtain the training needed to serve as surrogate parents for children in placement.

Continuity of School and Education

A child in out-of-home placement should have the same opportunity for educational achievement he had before the placement. If the county agency determines that it would be best for the child to stay in his or her current school, the child should be allowed to remain there regardless of whether placement or reunification causes the child to move outside his or her current school's geographic area. An amendment to the Public School Code providing that educational dollars follow the child would be required to implement this recommendation. Similar provisions have been enacted for children enrolled in charter schools.¹³

Currently, under the Public School Code, where a school district provides for the transportation of public school pupils to and from school, it must also provide for the free transportation of pupils who regularly attend private not-for-profit schools that are located within the district's boundaries or at a distance from the district not exceeding ten miles, in most cases, by the nearest public highway. The ten-mile limit is not applicable, for example, to the transportation of pupils to area vocational technical schools that regularly serve the district's public school students.¹⁴ The Public School Code could be amended to include similar provisions for the transportation of a child in out-of-home placement to public schools outside the child's home district.

-
- (1) No parent . . . can be identified;
 - (2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or
 - (3) The child is a ward of the State under the laws of the State.
- (b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. . . .
- ...
- (e) Responsibilities. The surrogate parent may represent the child in all matters relating to--
- (1) The identification, evaluation, and educational placement of the child; and
 - (2) The provision of FAPE [free appropriate public education] to the child.
- (Bracketed language added for clarity)

¹³See 24 P.S. § 17-1725-A.

¹⁴See 24 P.S. § 13-1361.

Parent Involvement

In order to enhance parental involvement in the education of a child in out-of-home placement, a school district should be required to notify the child's parents of the opportunity to be involved in parent/teacher conferences. So that this notice can be given, the child's caseworker should be required to keep the school district informed of the parent's status and address.

Caregiver Involvement

Caregivers (e.g., foster parents) should be required to attend a certain number of hours of training on the education system. This may necessitate increasing the total number of training hours foster parents must attend annually.¹⁵

Different Treatment of Children in Placement

Members of the subcommittee noted that children in foster care are often treated differently than other children at school. For example, foster children may be required to use meal tickets of a different color than those used by other children, and they may be excluded from field trips if a parent's signature is not provided. School personnel should be made aware of this differentiation in treatment and be required to make all possible attempts to include children who are in foster care in all school activities and avoid treating them differently than the other children in school.

Cooperation Between the Education and Children and Youth Systems

To better serve children in out-of-home placement, the county agency and the school should coordinate their efforts to the fullest extent possible. County agency and school personnel should meet and discuss issues they have in common regarding the child and keep each other informed about their respective activities regarding the child.

To facilitate the sharing of information between the children and youth services delivery system and the school, the county agency should assign a staff member to interface with the education system for all cases. This individual could be located in the agency's placement coordination unit, if it has one.

At the time of a child's enrollment, the county agency should inform the school of the child's special needs and idiosyncrasies. The county agency should also invite school participation in service planning for the child.

¹⁵55 Pa. Code § 3700.65 provides the following: "A foster parent shall participate annually in a minimum of 6 hours of agency approved training."

Schools and the children and youth services delivery system need to have a shared understanding of who has authority over which decisions. Therefore, the Departments of Education and Public Welfare should cooperate in developing a list of issues, classifying them as routine or nonroutine and deciding who has authority over which decisions. This classification system is currently used in the area of health care, and authority for making decisions regarding the issues is stated in the Public Welfare regulations. For example, where a county agency has legal custody of a child, the county agency authorizes routine medical or dental care (e.g., immunizations and treatment for ordinary illnesses), and consent for nonroutine care (e.g., nonemergency surgery) must be obtained from the parent.¹⁶

Data Collection

Each county agency should collect the following information regarding the education of children in placement and send it to DPW, so that the department can generate meaningful reports about the system.

- (1) How well the system is doing in keeping the child in his or her home school district
- (2) Grade completion (e.g., passing from one grade to the next or graduating)
- (3) How long it takes to transfer records between schools
- (4) How long it takes for a child to be enrolled in school

Health Care

Currently, with a few exceptions, a child must be examined by a physician and a dentist within 60 days after “admission to foster family care.”¹⁷

The requirement for examinations should be changed so that children are examined prior to placement. This would facilitate an appropriate placement for the child (e.g., a child with asthma should not be placed in a home where individuals smoke) and make it possible to provide information regarding the child’s health to the foster parent so that the foster parent may be better prepared to provide appropriate care for the child. Having an examination before

¹⁶55 Pa. Code § 3130.91.

¹⁷55 Pa. Code § 3700.51 provides the following:

(a) The FFCA [Family Foster Care Agency] shall ensure that a child receives a medical appraisal by a licensed physician within 60 days of the child’s admission to foster family care, unless the child has had an appraisal within the last 90 days and the results of the appraisal are available. . . .

...
(d) The FFCA shall ensure that a child, 3 years of age or older, receives a dental appraisal by a licensed dentist within 60 days of admission

(Bracketed language added for clarity.)

placement would also protect the foster family from contracting contagious illnesses and from blame for injuries or illnesses stemming from problems which existed in the child prior to placement (e.g., brittle bones).

Because of the lack of doctors available to provide medical examinations to children in placement, county agencies often rely on emergency room physicians for this service, which is very expensive. Therefore, funding should be established to have physicians and dentists available on-call to examine and provide medical and dental care to children who are in or entering placement.

For more issues relating to access to health care for children in placement, see “Access to Health Care” in the Additional Issues chapter.

Out-of-State Placement and Long-Distance Placement Within the State

The Commonwealth has a shortage of placement options available for certain children who need out-of-home placement. These children include those with mental health/mental retardation issues or who act out sexually or start fires. Consequently, many of these children are placed out-of-state, and a few are placed within the state, but at a great distance from home. Such placements present difficulties regarding visitation between the child and his or her parents. Also, placements in out-of-state facilities that accept these needy children are particularly expensive. The effects on the system of the additional costs to care for children placed out-of-state and the extra dollars spent on each child with special problems such as those noted above may result in reduced services for children who do not need special placements. Therefore, DPW should increase the capacity within the state to provide care for children who need special placements.

For more issues relating to out-of-state placement, see “Out-of-State Placement” in the Additional Issues chapter.

Kinship Care

Kinship Care is the full-time care of a child by an adult who has a kinship bond with the child. Such an adult may be, for example, a relative of the child, a godparent of the child or a close friend of the family. Kinship care “allows a child to grow to adulthood in a family environment.”¹⁸

¹⁸“Kinship Care in Child Welfare,” Child Welfare League of America, *at* <http://www.cwla.org/programs/kinship> (last visited November 15, 2002).

The Subcommittee on Services and Issues in Placement considered recommending that individuals caring for children who are related to them should be in the foster care system so that they may receive foster care funds to care for the children. However, the advisory committee decided not to make this recommendation, noting that each situation is unique. The committee discussed certain issues that should be considered if an individual who is caring for a child who is related to him or her is contemplating becoming a foster parent for the child. For example, the child would receive more services in the foster care system, but, if the child were receiving Supplemental Security Income (SSI) and the relative started receiving funds to care for the child under the foster care system, the child would no longer be eligible to receive SSI funds.

The advisory committee agreed that, like children in foster care placements, children in kinship care should be provided increased communication with and access to their parents and siblings when appropriate.

Assessment and Evaluation

County agency workers should be cross-trained in various disciplines so that they are better able to identify the many issues affecting a family at the time of the family's initial assessment. Required CORE training for county agency workers should include instruction in identifying the presence of drug and alcohol abuse (see the last paragraph of the section below on Drug and Alcohol Addiction Treatment), domestic violence and mental health/mental retardation issues.

Once a front-line worker detects an issue requiring further assessment, the worker should refer the family to an assessor who is specifically trained in the identified area of concern. Each county agency should have assessors who are skilled in each of the issues identified above on staff or easily accessible by the agency.

Concurrent Planning

Prior to the passage of the Federal Adoption and Safe Families Act of 1997 (ASFA),¹⁹ it was common for children nationwide to remain in foster care for many years. Planning for an alternative permanent placement for a child was begun only after all attempts to rehabilitate the child's parents and reunify the family failed. However, various provisions of ASFA make it clear that the paramount concern in child welfare today is the health and safety of children and that they must be moved into permanency more quickly than children were in the past.²⁰

¹⁹Public Law 105-89 was signed into law on November 19, 1997.

²⁰ASFA provides that reasonable efforts to preserve and reunify families must be made, but that such efforts are not required if aggravated circumstances are present, the parent committed or

Because finding a permanent placement for a child outside his or her family often takes time, caseworkers now plan for the provision of reunification services while simultaneously planning an alternative permanent placement for the child in case reunification efforts prove unsuccessful.

This need to plan for family reunification and an alternative permanent placement for the child at the same time has proven to be difficult and confusing for caseworkers, families and foster parents. Concurrent planning can be particularly difficult for foster parents who want to adopt their foster child but must, at the same time, acknowledge that the child may eventually be returned home if reunification of the family becomes possible. Re-evaluating a child's initial placement after six months is extremely important, as the child's needs may have changed or the goal for the child may be shifting. For example, it often occurs that a child is placed in a particular home because it is the only home available. That home may not represent an appropriate adoptive resource for the child, so it becomes particularly important to re-evaluate the placement if adoption becomes the goal for the child.

Because of the complexity of the issues involved in concurrent planning and the effect it has on all involved individuals, caseworkers need to receive continuing training in order to be effective at concurrent planning.

Improving Access to Services

In order to improve access to needed services in the children and youth services delivery system, multiple services should be made available at one location. Several "one-stop shopping" models, including family centers, are currently used in various jurisdictions. One-stop shopping with flexible hours of access to services should be required to increase the likelihood that a family will receive the various services it needs by reducing logistical impediments, such as transportation and scheduling problems.

In many cases, the county agency should provide for supportive services, such as transportation and babysitting, to enable families to participate in substantive services.

attempted murder or voluntary manslaughter of one of his or her children, the parent committed a felony assault resulting in serious bodily injury to the child or another child of the parent or the parent's parental rights to another child have been involuntarily terminated. *See* 42 U.S.C.A. § 671(a)(15)(A), (B), and (D). ASFA also provides that reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to preserve or reunify the family. *See* 42 U.S.C.A. § 671(a)(15)(F). A state is also required to file a petition to terminate parental rights if a child spent 15 or the most recent 22 months in foster care, unless the child is being cared for by a relative, there is a compelling reason that filing for termination of parental rights would not be in the child's best interest or the state failed to provide the family with services necessary for the safe return of the child to the family. *See* 42 U.S.C.A. § 675(5)(E).

County agency satellite offices, located close to the populations they serve, should be established to encourage families to participate in services.

Parents

In order to prevent possible neglect or abuse of a child, the children and youth services delivery system should offer respite care to parents who need time away from their children in order to relieve stressful situations.

Parents should be treated with respect and recognized as part of the team that helps the family. See the Principles of Care below for a list of principles that should guide the way parents are treated when proceedings are brought and services are provided under the Juvenile Act.

Drug and Alcohol Addiction Treatment

Drug and alcohol addiction problems are inextricably enmeshed with many of the concerns that bring a family or children to involvement with the children and youth services delivery system. Untreated drug and alcohol abuse and addiction is believed by many to be the largest single common denominator at work in the caseloads of the children and youth services delivery system, with several advisory committee members who head county agencies estimating that it is present in 70% to 80% of their cases. Failure to provide appropriate assistance to families where drug or alcohol problems are present can result in child abuse and neglect, destruction of the family and, in some cases, injury and death. For this reason, the array of services children and youth workers have available to them to support children and families must include the treatment of drug and alcohol addiction. Accordingly, the Subcommittee on Services and Issues in Placement discussed the following topics.

- (1) Overview of existing laws and programs
- (2) Managed care
- (3) Early and periodic screening, diagnosis and treatment
- (4) Institution for mental diseases exclusion
- (5) Title IV-E waivers and Temporary Assistance for Needy Families (TANF)
- (6) County agency staffing and training

Overview of Existing Laws and Programs

The Commonwealth of Pennsylvania has enacted a series of statutes and established several specialty programs to provide for drug and alcohol addiction treatment for children and adults. They are comprehensive and intended to

provide for the availability of addiction treatment across the socio-economic spectrum. The following is a summary of some of the pertinent statutes, programs and funding streams established to provide for addiction treatment for families and children.

- (1) Act 64 of 1986 required all group health insurance plans and health maintenance organizations (HMOs) to cover the treatment of alcohol addiction in facilities licensed by the Bureau of Drug and Alcohol Programs (BDAP), in the Department of Health.
- (2) Act 106 of 1989 amended Act 64 to require all group health insurance plans and HMOs to cover the treatment of both drug and alcohol addiction.
- (3) Act 152 of 1988 requires Medicaid to pay for the addiction treatment of individuals who are Medicaid-eligible in non-hospital residential treatment facilities licensed by the Department of Health. (Limited addiction treatment services in hospital and out-patient programs were already covered under Medicaid.) Note that pregnant addicted women and addicted women with dependent children are major applicants for this service.
- (4) The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services program was enacted by Congress in 1967 to provide comprehensive preventive health and treatment services to Medicaid-eligible children under the age of 21. Funds under this Federal Medicaid program may be applied to the screening and treatment of alcohol and drug addiction.
- (5) The Children's Health Insurance Program (CHIP) provides health insurance coverage for children who are ineligible for Medicaid and who are not otherwise insured by private or employer-based insurance. Administered as a group health plan, CHIP is bound by the provisions of Act 106 of 1989 to provide the same comprehensive package of addiction treatment services.
- (6) Act 65 of 1992 calls for the establishment of residential rehabilitation centers to provide addiction treatment and support services for addicted women, pregnant addicted women and addicted women with dependent children. Note that fewer than 15 programs have been established in the state.
- (7) BDAP in the Department of Health has some funds available to provide addiction treatment for individuals who are ineligible for other funding. These funds are limited and come from the Federal Drug and Alcohol Block Grant and from a state allocation.

Managed Care

Despite what appears to be a well-developed system of resources and coverages to provide for addiction treatment, children and youth workers and

others report difficulty in accessing addiction treatment services for parents and children where managed care is involved.

According to the Drug & Alcohol Service Providers Organization of Pennsylvania, problems in accessing addiction treatment began to occur around 1991 as commercial insurance plans sub-contracted the administration of addiction treatment to managed care organizations. Now, few individuals are able to access care already paid for by premiums and required by law because of delays and denials of treatment and other obstacles created by managed care organizations.

Although the managed care problem most seriously affects access to treatment through commercial health insurance plans (Act 106 of 1989) and CHIP, it is also causing a great deal of cost shifting into the severely limited resources of Medicaid and the Bureau of Drug and Alcohol Programs. On the county level, drug and alcohol authorities commonly run out of residential treatment dollars well before the end of the state's fiscal year.

Public funds available for the treatment of individuals are limited, and in this time of revenue shortfalls, it is particularly important that benefits already provided for in health insurance plans and required by law be accessible to the subscriber. Payment for addiction treatment for individuals with health insurance or CHIP coverage should not be shifted to public funding (including, among others, federal and state funds provided to county drug and alcohol authorities to serve local residents, State Act 148²¹ funds meant for children and youth and juvenile probation services and vocational rehabilitation funds under the Department of Labor and Industry).

Because of widespread concerns about the inability to access addiction treatment and the cost-shifting to limited public funds, the Health and Human Services Committee of the Pennsylvania House of Representatives held two hearings on the enforcement of Act 106 of 1989. Members of the committee also introduced six bills to establish accountability and to make it clear when violations of Act 106 occur. To ensure that children and families in crisis are able to obtain needed addiction treatment services through insurance and CHIP, the General Assembly should move forward in its efforts to enact statutes to ensure compliance with Act 106.

Both the subcommittee and advisory committee support the concepts espoused in the bills, including the following.

- (1) Establishing a one-step grievance and appeal procedure for those seeking treatment for alcohol and other drug addictions, so that treatment can be quickly obtained

²¹See *infra* note 147.

- (2) Requiring provision of alcohol and drug dependency treatment ordered by certified employee assistance professionals where such services are provided for in a health benefit package
- (3) Requiring all health plans to provide an annual plan to the General Assembly and appropriate agencies for the provision of alcohol and drug addiction treatment, including an estimate of the prevalence of chemical dependency in the subscriber pool, an estimate of the need for each type of treatment and an outreach plan
- (4) Requiring all health plans to provide an annual report to the General Assembly and appropriate agencies on the provision of alcohol and drug dependency treatment services, including the number of subscribers receiving treatment, the type of treatment and level of care, and the names of subcontracting managed care organizations and treatment facilities providing services
- (5) Requiring a health plan that provides behavioral health care services through a company owned wholly or in part by the carrier or through a contract with a managed behavioral health care organization to submit an annual report to the General Assembly and certain agencies and disclose the drug and alcohol abuse and addiction treatment expense ratio for the provision of this care to members
- (6) Assuring the provision of addiction treatment within a benefit plan where the drug or alcohol problem is identified as a result of contact with the criminal justice system or where treatment is ordered by a court²²

In addition, the General Assembly should require the Office of the Auditor General to audit the provision of addiction treatment services under the CHIP program to ensure that such services are provided when appropriate. The General Assembly should also require the Office of the Attorney General to use its investigative powers to aid enhanced enforcement of Act 106. Finally, the General Assembly should provide both offices with the resources necessary to enable them to fulfill these requirements.

Early and Periodic Screening, Diagnosis and Treatment (EPSDT)

EPSDT is a state-administered federal program. Although drug and alcohol abuse and addiction screening, counseling and treatment can be provided to Medicaid-eligible children under 21 and parents under the program, families do not appear to be able to access this help at this time.

²²It was noted at the hearings mentioned above that managed care organizations often refuse to provide for treatment if the insured individual's addiction is first identified as a result of, for example, being arrested for driving under the influence. It was further noted that where a court orders a minor covered under his parents' health insurance plan to get treatment, the insurer often refuses to cover the treatment.

To ensure that children and families in crisis are able to obtain needed addiction screening, counseling and treatment services through EPSDT, the Department of Public Welfare should establish a method to provide assessment and treatment for drug and alcohol problems for children and parents through EPSDT.

Also, the General Assembly should require the Department of Public Welfare to provide an annual report to the Health and Human Services Committee of the House of Representatives and the Public Health and Welfare Committee of the Senate on the provision of drug and alcohol abuse screening, counseling and addiction treatment through EPSDT.

Finally, the General Assembly should require the Office of the Auditor General to audit the provision of addiction treatment services under the EPSDT program to ensure that such services are provided when appropriate. The General Assembly should also provide the resources necessary for the office to perform the audit.

Institution for Mental Diseases (IMD) Exclusion

Federal payments made to the states for their medical assistance programs are authorized under the Social Security Act.²³ The Act's definition of "medical assistance" patently excludes services provided in an institution for mental diseases for individuals under 65 years of age.²⁴

²³42 U.S.C. § 1396b(a) begins as follows:

From the sums appropriated therefor, the Secretary . . . shall pay to each State which has a plan approved under this subchapter . . .

(1) an amount equal to the Federal medical assistance percentage . . . of the total amount expended . . . as medical assistance under the State plan; . . .

²⁴ 42 U.S.C. § 1396d(a) provides the following:

The term "medical assistance" means payment of part or all of the cost of the following care and services . . .

(1) inpatient hospital services (other than services in an institution for mental diseases);

. . .

(4)(A) nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older . . . ;

. . .

(14) inpatient hospital services and nursing facility services for individuals 65 years of age or over in an institution for mental diseases;

. . .

(27) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary, except as otherwise provided . . . such term does not include--

. . .

(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases.

According to the National Association of State Alcohol and Drug Abuse Directors (NASADAD), this IMD exclusion was part of the 1960's effort to de-institutionalize the treatment of the mentally ill and encourage community-based mental health treatment. To accomplish this goal, Federal Medicaid dollars were barred from being used to pay for institutional care of individuals with mental disease where treatment occurred in state mental hospitals and other institutions with more than 16 beds.

Ironically, even though the definition of "institution for mental diseases" does not mention drug or alcohol addiction,²⁵ the federal agency responsible for administering the Medicaid program has interpreted several federal regulations²⁶ to bar provision of Federal Medicaid funds for drug and alcohol addiction treatment in these community-based non-hospital residential programs. That agency, under the Department of Health and Human Services, was known as the Health Care Financing Administration (HCFA), until it was renamed the Centers for Medicare and Medicaid Services in July of 2001. According to NASADAD, HCFA also construed the illness of addiction to be a mental disease.

While more non-hospital residential treatment facility beds are needed to care for individuals with untreated drug and alcohol addictions, expansion of the number of beds available through support of Act 152 of 1988 (for Medicaid-eligible individuals) and Act 65 of 1992 (for addicted women, pregnant addicted women or addicted women with dependent children) is unlikely without the provision of federal matching funds for the existing services. A change in the interpretation of the IMD exclusion would allow for the expansion of residential treatment facilities for addicted women and their children - an important resource for the children and youth services delivery system to have available.

²⁵ 42 U.S.C. § 1396d(i) provides the following:

The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

²⁶ 42 C.F.R. § 435.1008 provides the following:

(a) FFP [federal financial participation] is not available in expenditures for services provided to--

...

(2) Individuals under age 65 who are patients in an institution for mental diseases unless they are under age 22 and are receiving inpatient psychiatric services under Sec. 440.160 of this subchapter. . . .

(Language in brackets added for clarity)

42 C.F.R. § 435.1009 contains definitions relating to Medicaid eligibility. It defines "institution for mental diseases" as follows:

Institution for mental diseases means a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for the mentally retarded is not an institution for mental diseases.

The General Assembly should send a resolution to Congress urging a change in the Social Security Act to clarify that residential drug and alcohol treatment facilities are not institutions for mental diseases. This would allow Federal Medicaid coverage for drug and alcohol addiction treatment of individuals in community-based, non-hospital residential addiction treatment facilities with over 16 beds.

Title IV-E Waivers and Temporary Assistance for Needy Families (TANF)

The Child Welfare Demonstration Program allows states to apply for waivers of certain requirements of subchapters IV-B and IV-E of the Social Security Act, which cover child and family services and foster care and adoption assistance, respectively.²⁷ Obtaining a waiver (commonly known as a Title IV-E waiver) affords a state flexibility in using IV-B and IV-E funds to design and demonstrate a wide variety of approaches to improving the delivery and effectiveness of services. At least 22 states have received approval for demonstration projects, which can have an initial period of up to five years and may be extended beyond that timeframe. Two of those states were approved for two demonstration projects each, and five states (Delaware, Illinois, Maryland, New Hampshire and West Virginia) received waivers to operate demonstration projects involving the treatment of alcohol and drug abuse and addiction.²⁸

To ensure that addicted members of families involved with the children and youth services delivery system can access addiction treatment, DPW should apply for a waiver to establish a demonstration project under which drug and alcohol addiction treatment can be provided to family members while providing day care services for their children. The goals would be to prevent the abuse and neglect of children linked to addiction problems, prevent the need to remove children from their homes and facilitate their return if removal was necessary.

DPW should also seek to maximize federal participation in the provision of drug and alcohol addiction treatment through the use of TANF funds in this area.

County Agency Staffing and Training

Because drug and alcohol addiction problems are present in so many families who become involved with the children and youth services delivery

²⁷The current version of the Child Welfare Demonstration Program was authorized by Public Law 105-89, which is known as the Adoption and Safe Families Act of 1997 (ASFA).

²⁸See 42 U.S.C.A. § 1320a-9 and the website of the Admin. for Children and Families, U.S. Dept. of Health and Human Serv., at <http://www.acf.dhhs.gov/programs/cb/initiatives/cwwaiver.htm> (last visited October 23, 2002).

system, DPW should add the basics of alcohol and drug addiction to the CORE training which is required of all caseworkers²⁹ and supervisors.³⁰ While substance abuse training is available to caseworkers and supervisors, it is not currently part of the CORE training curriculum.³¹ For the same reason, a certified addictions counselor should be located in or readily available to each county agency.

Foster Parents

Because foster parents are so intricately involved in the lives of children in placement in foster care homes, the Subcommittee on Services and Issues in Placement focused a great deal of attention on foster parents and discussed the following topics.

- (1) Access to information
- (2) Hearings
- (3) Support by the children and youth services delivery system
- (4) Funds provided for foster care
- (5) Allegations of abuse
- (6) Recruitment

²⁹55 Pa. Code § 3490.312 provides the following:

...
(d) The Department, with consultation from its steering committee, will establish standards, a process and a program for county agencies relating to the initial and ongoing certification of direct service workers including the following requirements:

...
(2) Direct service workers hired on or after July 1, 1996, shall be certified under the established standards within 18 months of their date of employment.

...
(6) Initial certification of direct service workers shall include the following components:

(i) A minimum of 120 hours of CORE training.

(A) The content of CORE training shall be determined by the Department in consultation with the steering committee.

...
³⁰55 Pa. Code § 3490.313 provides the following:

(a) Supervisors who supervise direct service workers shall be certified as a direct service worker.

...
(2) Supervisors hired, transferred or promoted after June 30, 1996, who are not certified, shall meet the certification requirements in the training program requirements for direct service workers within 12 months of employment or transfer.

...
³¹See the Pennsylvania Child Welfare Competency-Based Training and Certification Program website at <http://www.pacwebt.pitt.edu/core.htm> (last visited October 23, 2002) for an explanation of the subjects covered under the following nine CORE training workshops: Legal, Child Protective Services, Casework Process and Case Planning, The Effects of Abuse/Neglect on Child Development, Separation and Placement in Child Protective Services, Adoption, Risk Assessment: PA Model, Family Preservation and Valuing Diversity.

In addition, the Subcommittee on Accountability discussed issues regarding training and information manuals for foster parents.

Access to Information

Current regulations provide two clear, broad categories of information from the case record that foster families are to be given: information which is “necessary to protect the child’s health and safety and to assist in the child’s successful accomplishment of necessary educational, developmental or remedial tasks” and information which will enable the foster family “to function safely and in cooperation with the FFCA [foster family care agency].”³² While these regulations are broad enough to require information to be provided to foster parents, information often is not shared with foster parents and confidentiality is cited as the reason. County agencies should ensure that caseworkers provide information to foster parents in accordance with the regulations.

Whenever possible, foster parents should be given information about a child before placement so that they can make an informed decision regarding whether they can provide the necessary care for the child.

The subcommittee also suggested that the Juvenile Act (42 Pa.C.S. Chapter 63) be amended to add foster parents to section 6307, so that a foster parent has access to court records, and to section 6336(d), so that a foster parent will be admitted to hearings regarding the child under the Act. However, the advisory committee did not agree with these recommendations.

Hearings

The subcommittee noted that the notice and opportunity to be heard provisions of section 6336.1 of the Juvenile Act do not ensure the foster parent’s presence in court, because many counties implement the section by excluding foster parents from most of a proceeding and allowing them to enter the courtroom only to make a statement to the judge. The subcommittee suggested that a foster parent should be required to attend and participate in court hearings, or in the alternative to submit a written statement to the court. However, the advisory committee did not reach consensus on this issue.

Support by Children and Youth System

Foster parents should be acknowledged and treated as part of the team helping the child and family. Foster parents should be supported by the children and youth services delivery system and notified of all the services they are

³²55 Pa. Code §§ 3700.38 (c) and (d).

entitled to receive and their ability to choose which services they want to receive. They also should be given training regarding the system and what happens if an allegation of abuse is made against a foster parent.

In order to help foster parents better care for children and better understand the children and youth services delivery system, a network of experienced foster parents should be established to serve as mentors to newer foster parents. A foster parent should also have a consistent liaison within the county agency, so that care of the child may remain as consistent as possible.

Funds Provided for Foster Care

The amount of funds provided to foster parents should be tied to a cost of living adjustment (COLA), so that it increases as costs increase, and the amount of the COLA should be passed on to private agencies providing foster care so that they do not absorb the additional cost of the COLA. For example, if it is determined that an additional \$3 per day is required to care for a child in foster care, DPW should require all foster care provider agencies to increase the rates of funds they provide to foster parents by \$3 per day. The department should also require county agencies to provide the extra \$3 per day to private providers and should reimburse the county agency for the state's portion of the \$3 increase. If funds for the increased costs of care are not passed on to private providers and to foster parents, the foster parent may, as a result, use his or her own money to provide care for the child.

See also the section above titled Placement Options and Funding regarding graduated rates of funds provided for foster care.

Allegations of Abuse

If a child is living at home and there is an allegation of abuse against a parent, the county agency removes the child from the home and a detention hearing must be held within 72 hours.³³ However, if an allegation of abuse is made against a foster parent, practice has been that all of the foster children are removed from the foster parent's home until the investigation is complete, which can take as long as 60 days.³⁴ This causes considerable disruption in the lives of

³³Among other things, 42 Pa.C.S. § 6332 provides that an "informal hearing shall be held promptly by the court or master and not later than 72 hours after the child is placed in detention or shelter care to determine whether his detention or shelter care is required"

³⁴23 Pa.C.S. § 6368(c) provides the following:

(c) Completion of investigation.--The investigation by the county agency to determine whether the report is "founded," "indicated" or "unfounded" and whether to accept the family for service shall be completed within 60 days in all cases. If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall

the children. The subcommittee decided that the timelines involved when there is an allegation of abuse against a foster parent should be shortened, so that a more immediate court response can be had when children are removed from foster homes in alleged abuse situations and the children's lives disrupted as little as possible. However, the full advisory committee did not reach consensus on this issue.

Recruitment

The subcommittee acknowledged the need for more foster parents in the children and youth services delivery system and noted that the low numbers of available foster parents are related to a variety of factors, including the increasing complexity of the needs of foster children, liability concerns, regulatory requirements and economic factors. It is expected that the number of available foster parents will fall even lower than current levels as foster parents are encouraged to adopt their foster children as a result of the need to more quickly provide permanence for children under ASFA.³⁵ The subcommittee members noted that when foster parents adopt a child, they often stop offering their homes

be described in the child protective service record and available to the department for purposes of determining whether the county agency has strictly followed the provisions of this chapter

³⁵See, e.g., 42 U.S.C.A. § 675, which provides the following.

As used in this part or part B of this subchapter:

. . .

(5) The term "case review system" means a procedure for assuring that -

. . .

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless -

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 671(a)(15)(B)(ii) of this title are required to be made with respect to the child;

. . .

for foster care. Therefore, DPW should develop a program of general recruitment for foster parents. The department could follow its model for recruiting adoptive parents in developing the foster parent recruitment program. The subcommittee on Structural and Systems Issues also reviewed this topic and added that a recruitment program should provide for cross-sector coordination of recruitment by counties and regions.

Also, as addressed above under Older Children in Placement, DPW should develop specialized programs for the recruitment of foster parents (1) within the communities of children who need out-of-home placement; (2) to care for older children; and (3) to care for older children who have children of their own.

Training and Information

The Subcommittee on Accountability emphasized that it is vitally important that foster children be under the care of persons who are properly trained in the task and are aware of how to deal with their unique needs. At the same time, training requirements should not be so burdensome that they discourage people from becoming foster parents. For example, it is not realistic to require foster parents to undergo the 120-hour course required of case workers under competency-based training.

Training should use a formalized curriculum, and DPW should reimburse private agencies for providing the training. The content of the training should reflect the needs of the children; thus, a treatment foster parent³⁶ should receive a more intensive kind of training than other foster parents receive. Without formulating a precise recommendation on the subject, the advisory committee has identified a need for greater flexibility and more options to be afforded foster parents with respect to training.

DPW should also update its informational manual for foster parents, availing itself of assistance from the private sector to facilitate that task, if necessary. The present manual was issued during the administration of Governor Robert P. Casey, and therefore fails to advise foster parents of the many important changes in law and practice that have since been instituted.

³⁶According to the Foster Family-Based Treatment Association, treatment foster care combines the nurturing and caregiving aspects of traditional foster care with individualized treatment for children with serious emotional, behavioral or medical problems who might otherwise be placed in institutional settings. See http://ffta.org/what_is_tft.html (last visited November 1, 2002). Also, according to the Pennsylvania Council of Children, Youth and Family Services, the Department of Public Welfare does not define treatment foster care and does not specify it in the regulations. Consequently, private providers design programs based on the treatment needs of children and set education and training requirements - which exceed regulatory requirements - for treatment foster parents.

Principles of Care for Children and Families

The Subcommittee on Services and Issues in Placement recommended that amendments be made to the Juvenile Act to incorporate bills of rights for children in out-of-home care, the parents of those children and the foster parents with whom the children are placed. The bills of rights were based in part on California Assembly Bill 899, which was signed into law on October 10, 2001; section 10-7206.1 of the Oklahoma State Statutes and Pennsylvania Public Welfare regulations found at 55 Pa. Code sections 3800.31 and 3800.32. The advisory committee, however, decided not to recommend that the bills of rights be enacted into statutory form. Instead, the advisory committee agreed to present the contents of the bills of rights as the following principles of care to be used to guide proceedings brought and services provided under the Juvenile Act.³⁷

This list of principles is intended to be a guide only and is not meant to encourage an individual or agency that is caring for a child to take any action that could impair the health or safety of the child for the sake of strictly adhering to the principles. Also, the principles are not intended to create a private right of action on the part of any individual or agency or the Department of Public Welfare.

The department, county agencies and private provider agencies are encouraged to provide a copy of these principles to all children in out-of-home care, the parents of children in out-of-home care and the foster parents who care for the children.

Children in Out-of-Home Care

A child who is adjudicated dependent under 42 Pa.C.S. § 6341 (relating to adjudication) and is placed in out-of-home care should:

Note: The adjudication of dependency indicates that the child is in the legal custody of a county agency.

³⁷While discussing the bills of rights, concerns were raised at the advisory committee level about creating enforceable rights through a private right of action. As a result, the following language was drafted as a possible means to address the concerns if the principles of care were placed into a statute:

(5) This section shall not confer an enforceable right on behalf of its beneficiaries nor does it create an implied cause of action on the beneficiaries' behalf.

(6) Nothing in this section shall be construed as a waiver of sovereign immunity or a waiver under 42 Pa.C.S. § 8522 (relating to exceptions to sovereign immunity).

(7) Nothing in this section shall be construed as a waiver of immunity granted to political subdivisions and local agencies under 42 Pa.C.S. § 8541 (relating to governmental immunity general) or a waiver under 42 Pa.C.S. § 8542 (relating to exceptions to governmental immunity).

(1) Be treated with fairness, dignity and respect and not be discriminated against because of race, color, religion, disability, sexual orientation, national origin, age or gender.

(2) Be free from harassment, corporal punishment, unreasonable restraint and physical, sexual, emotional and other abuse.

Note: It is intended that under this paragraph a child should not be locked in any room unless specific safety reasons exist. However, this paragraph would not preclude a facility from locking its premises or a medical professional from administering necessary and appropriate treatment for the child.

(3) Live in a safe, healthy and comfortable home.

(4) Be properly nourished and clothed.

Note: Clothing should be clean, seasonal and age and gender appropriate.

(5) Receive medical, dental, vision, mental health, behavioral health and drug and alcohol abuse and addiction services that respond to the child's needs.

(6) Be free from unreasonable searches of personal belongings and mail and free to make and receive confidential telephone calls as reasonable unless otherwise provided in law.

Note: Mail is intended to include electronic mail and other such communications.

(7) Be permitted to visit with and contact family members, consistent with the family service plan, unless otherwise prohibited by court order, and to contact his or her attorney and members of his or her children and youth services team.

Note: Family members include parents and siblings. Members of the children and youth services team include caseworkers, court-appointed special advocates and guardians ad litem. This paragraph presumes that the child is provided contact information and a means of communication for contacting the listed individuals.

(8) Be permitted to participate in religious observances and activities and attend religious services of his or her preference or the religion of his

or her family of origin or culture as may be reasonably accommodated, or to refrain from such religious practices.

(9) Maintain and reflect his or her culture as may be reasonably accommodated.

(10) Receive an appropriate education consistent with State law.

Note: As part of the educational experience, it is intended that the child have the opportunity to participate in extracurricular, cultural and personal enrichment activities, which are reasonably available and accommodated and consistent with the child's age and developmental level.

(11) Work and develop job skills at an age-appropriate level, consistent with State law and as may be reasonably accommodated, and receive appropriate life skills training to prepare for independent living.

(12) Attend court hearings relating to his or her case and have the opportunity to be heard.

(13) Be permitted to contribute to and receive information about the family service plan, including changes to the plan, and to review the case plan itself if he or she is at least 14 years of age.

(14) Have confidentiality maintained consistent with State law.

(15) Have any kinship resource or previous foster parent of the child be considered as the preferred placement resources, if such placement is consistent with the best interests of the child and the needs of other children in the kinship residence or foster parent's home.

(16) If the child has a child of his or her own, be permitted to exercise parental and decision-making authority over his or her child and to reside with the child, if appropriate and as may be reasonably accommodated, unless prohibited by order of court.

(17) Have the opportunity to contact the Department of Public Welfare confidentially and to make complaints regarding alleged violations of his or her rights and to be free from harassment and retaliation regarding such actions.

Parents of Children in Out-of-Home Care

A parent of a child in out-of-home care should:

(1) Be treated with dignity, respect and consideration as the primary caregiver for his or her child, and to have their privacy and confidentiality maintained regarding information provided to the court or the state agency or child-placing agency, consistent with State law.

(2) Be notified of and receive appropriate, continuing education and training to develop and enhance parenting skills.

(3) Be informed about how to contact the state agency or child-placing agency in order to receive information regarding support services available in the community for parents and families and how to access the services.

(4) Be notified of any costs or expenses for which the parent may be eligible for reimbursement and to receive such reimbursement in a timely manner.

(5) Receive the family service plan, be permitted to participate actively in case planning and decision-making processes regarding his or her child and to communicate with other individuals who work with the child, unless prohibited by order of court.

Note: It is intended that individuals under this paragraph include therapists, physicians and teachers.

(6) Be notified in a timely and complete manner of all court hearings regarding his or her child, and be informed of decisions made by the court, the state agency or the child-placing agency regarding his or her child.

Note: Notice of court hearings regarding the child is intended to include the date, time and location of the hearing and to ensure that the parent is informed about the subject matter of the hearing.

(7) Be informed of his or her right to counsel and to be appointed counsel if he or she cannot afford an attorney.

(8) Be permitted to visit with his or her child, consistent with existing law and regulation, unless prohibited by order of court.

(9) Be free from harassment and retaliation when challenging a decision of the county agency or department or when challenging allegations raised as part of an investigation.

Foster Parents

A foster parent of a child in out-of-home placement should:

- (1) Be treated with dignity, respect and consideration as a caregiver for the foster child.
- (2) Be notified of and receive appropriate, continuing education and training to develop and enhance foster parenting skills.
- (3) Be informed about how to contact the state agency or child-placing agency in order to receive information regarding support services available in the community for foster children and families and how to access the services.
- (4) Be notified of any costs or expenses for which the foster parent may be eligible for reimbursement and to receive such reimbursement in a timely manner.
- (5) Receive the following information in a timely manner:
 - (a) The length of time that the foster child has been in out-of-home placements.
 - (b) The number of out-of-home placements for the foster child.
 - (c) The reasons for the out-of-home placements, including why the foster child was moved from one placement to another.
 - (d) Any information regarding the foster child and the foster child's family, which is necessary in order to provide the child with appropriate foster care services.

Note: The information under this paragraph should be communicated and disclosed by either the county agency or child-placing agency.

- (6) Receive the individual service plan, be permitted to participate actively in case planning and decision-making processes regarding the foster child and to communicate with other individuals who work with the foster child, subject to the privacy rights of the parent.

Note: It is intended that individuals under this paragraph include therapists, physicians and teachers.

- (7) Be notified in a timely and complete manner of all court hearings regarding the foster child, and be informed of decisions made by the court, the state agency or the child-placing agency regarding the foster child.

Note: Notice of court hearings regarding the foster child is intended to include the date, time and location of the hearing and to ensure that the foster parent is informed in regard to the subject matter of the hearing.

(8) Be provided a fair, timely and impartial investigation of complaints regarding the foster parent and to be informed of the process for challenging a decision by the county agency or department.

(9) Be free from harassment and retaliation when challenging a decision of the county agency, provider agency or department or when challenging allegations raised as part of an investigation.

CHILDREN’S OMBUDSMAN AND COMPLAINT RESOLUTION

Accountability is a vital part of the relationship between the child welfare system, its clients and the broader public, including the General Assembly. Where the welfare of children is at stake, the public has the right to a particularly firm assurance that the system is doing its job. At the same time, accountability inevitably raises delicate issues concerning assignment of blame. Perceived unfairness in applying accountability standards can result in lower morale and difficulties in recruitment and retention of child welfare staff.

The Subcommittee on Accountability turned its attention to the need for a mechanism to address complaints within the children and youth services delivery system. In this regard, the subcommittee believed that the mechanism should be independent of the system itself in order to enhance accountability and promote public perception of fairness within the system. The advisory committee addressed this need by supporting the recommendations of the Subcommittee on Accountability regarding a statewide children’s ombudsman and a statutory requirement for a local complaint resolution office.

Types of Ombudsmen

Three general types of ombudsmen have been identified: the classical, organizational and advocate. A classical ombudsman is a public official whose primary responsibility is “addressing issues raised by the general public or internally, usually concerning the actions or policies of government entities or individuals.”³⁸ The purpose of the classical ombudsman is to use investigative powers to conduct an impartial review of citizens’ complaints against the actions of governmental agencies.

Ombudsmen guard against bureaucratic injustice; rather than advocating for the complainant, they follow the investigations evidence - wherever it may lead. They reach conclusions that criticize or vindicate administrators. Although their investigations are conducted in a confidential manner, they may give a report of their recommendations - perhaps as a means of pressuring agencies

³⁸Report of the American Bar Association, Section of Administrative Law and Regulatory Practice and Section of Dispute Resolution, at 10, at <http://www.abanet.org/adminlaw/approvedreport.doc> (last visited August 26, 2002).

to comply with the ombudsman's interpretation of the situation, but they do not have power to change administrative rulings.³⁹

An organizational ombudsman is a similar official who handles complaints within a private organization. An advocate ombudsman is a public or private official who also evaluates claims objectively, but in addition "is authorized or required to advocate on behalf of individuals or groups found to be aggrieved."⁴⁰

At present, the Department of Public Welfare (DPW) gives substantial attention to client complaints. A DPW representative has estimated that as much as 30% of staff time of the Office of Children, Youth and Families (OCYF) is devoted to resolving such complaints.

The advisory committee agreed that despite OCYF's handling of client complaints, the creation of a children's ombudsman office is nevertheless essential because it will give the Commonwealth's children and youth services delivery system a dimension of accountability it does not now have: an avenue of recourse for dissatisfied clients that is independent of the system itself.

The Ombudsman in Other States

The advisory committee discussed the need for a classical ombudsman and took no position on the need for an advocate ombudsman. As the perceived need for independent review has increased, ombudsman's offices in varying jurisdictions have proliferated across the country. Six states have ombudsman's offices whose jurisdiction is coextensive with the entire executive branch. Many states have established ombudsmen with more limited jurisdiction. In Pennsylvania, such offices cover programs for the aging, environmental compliance and consumer issues. Other states have established offices with similar jurisdiction, as well as offices for human rights advocacy, education and health.⁴¹ Perhaps the most common of all the areas where the ombudsman office has been adopted is that of child welfare. At least 13 states have adopted the children's ombudsman in some form. In each of these states, except Delaware, this office has responsibility for investigating complaints from citizens regarding the child welfare system.

The following comparative chart summarizes children's ombudsman provisions in other states. The chart includes the following information.

³⁹Larry B. Hill, *Institutionalizing a Bureaucratic Monitoring Mechanism: The First Thirty Years of Hawaii's Ombudsman*, "Americanizing the Ombudsman," at <http://www.abanet.org/adminlaw/ombuds/hill1.html> (March 28, 2001).

⁴⁰ABA Report, *supra* note 38, at 11.

⁴¹Stephanie A. Stark, "Children's Ombudsman: A State Necessity," [2002].

Name: the name of the agency that acts as children’s ombudsman

Department: the department within which the office is located (in several states, the office is independent, but may be located within an agency for administrative purposes)

Appointment: the official with responsibility for designating the children’s ombudsman

Statutory: whether the ombudsman is explicitly created by statute (yes) or by regulation (no)

Representation: whether the ombudsman has the power to represent the child’s interests in court

State Children’s Ombudsman Provisions

State	Name	Department	Appointment	Statutory	Representation
California	Foster care ombudsperson	Autonomous within department	Director upon consultation with selection committee	Yes	No
Connecticut	Child advocate	Independent ⁴²	Governor upon recommendation of commission	Yes	Yes
Delaware	Child advocate	Independent	Child Protection Accountability Commission, executive committee	Yes	No
Georgia	Child advocate	Independent ⁴³	Governor upon recommendation of nominating committee	Yes	No ⁴⁴
Illinois	Office of Advocacy for Children and Family Services	Department of Children and Family Services	Director of department	Yes	No
Illinois	Office of the Inspector General ⁴⁵	Independent	Governor	Yes	No

⁴²Assigned to Freedom of Information Commission for administrative purposes only.

⁴³Assigned to Office of Planning and Budget for administrative purposes only.

⁴⁴Child advocate may apply to the Governor to bring suit for mandamus or injunction.

⁴⁵Statutory jurisdiction limited to mental health and developmental disabilities.

State	Name	Department	Appointment	Statutory	Representation
Kentucky	Ombudsman	Cabinet for Families and Children	Secretary of Families and Children	Yes	No
Maine	Child welfare services ombudsman	Executive department	Governor	Yes	No
Michigan	Children's ombudsman	Department of Management and Budget (autonomous)	Governor	Yes	No
Rhode Island	Child advocate	Independent	Governor upon recommendation of nominating committee	Yes	Yes
South Carolina	Children's Case Resolution System	Governor	Governor	Yes	No
Utah	Child protection ombudsman	Department of Human Services	Executive director of department	Yes	No
Washington	Family and children's ombudsman	Independent	Governor	Yes	No
Wyoming	Office of Client Advocate	Department of Family Services	Director of Family Services	No	--

Connecticut. Connecticut gives the Office of Child Advocate (OCA) broad powers, combining those of a classical and advocate ombudsman. In addition to investigating complaints, the child advocate can evaluate delivery of services and review placement facilities, recommend changes in state policies, provide training and technical assistance to attorneys and guardians ad litem and “take all possible action” to protect children’s rights. In addition, there are extensive provisions regarding participation by the ombudsman in the child fatality review panel. A seven-member advisory committee assists the child advocate; the committee’s approval is required before the child advocate can sue a state department.⁴⁶

From July 1, 1999 to June 20, 2000, the Connecticut OCA received 1,424 contacts from the public, of which 1,010 were referred to other agencies. The office investigated 414 cases and resolved 356 of them. Where a case involves complex multidisciplinary issues, OCA recommends and sometimes facilitates a meeting of agencies, providers, caregivers and other involved parties to assist in case planning. As many families have been frustrated by lack of appropriate services and supports for children with special health care needs, OCA convened a task force to address that issue. OCA engages in extensive public advocacy

⁴⁶Conn. Gen. Stat. §§ 46a-13k through 46a-13q.

through consultation with public agencies, legislative lobbying and litigation. During the 2000 session of the Connecticut legislature, OCA advocated for proposals relating to children's health, safety and protection, including expanded mental health services for children, pediatric asthma care, supports for caregivers, services and treatments for juvenile status offenders and consumer warning labels on hazardous products.⁴⁷

Georgia. In Georgia, the Office of the Child Advocate for the Protection of Children (OCA) has both complaint resolution and advocacy powers. The primary purpose of OCA is to monitor and oversee the operations of the Georgia Department of Family and Children Services.⁴⁸ In its first annual report, OCA concentrated on making policy suggestions for the improvement of the state's child protection system rather than detailing its response to complaints.

Michigan. The responsibility of Michigan's Office of Children's Ombudsman (OCO) is mostly concentrated on handling complaints, but it may also make recommendations regarding protective services, adoption and foster care legislation. Since Michigan represents a fairly close match in terms of population with Pennsylvania, some statistics concerning their office may be instructive. The OCO staff comprises 13 full-time employees, including the ombudsman, eight investigators, a supervising investigator, an intake investigator and two administrative support staff. For the fiscal year 2000-01, the annual budget was \$1,194,398. OCO received 815 complaints involving 1,274 children, of which 158 were accepted for investigation. It completed 172 investigations involving 685 children. In 86 of these cases, the treatment by the agency was affirmed; in 80, findings and recommendations were issued; the remaining six cases fell into neither category. Out of a total of 413 findings and recommendations, 294 involved violations of law or policy, 109 noted poor practice or decisions, 5 raised systems issues and 5 identified inadequate law or policy.⁴⁹

Washington. The Washington Office of the Family and Children's Ombudsman (OFCO) is appointed by the Governor and is independent of the department that oversees child welfare. Like Connecticut, Washington's ombudsman has powers to review and oversee facilities and procedures, in addition to handling complaints. Provisions are included that make the ombudsman accountable to a legislative oversight committee. Washington's provisions on confidentiality are the most detailed of any state's, including a privilege that protects the ombudsman's staff against being compelled to testify regarding official duties.⁵⁰

⁴⁷Connecticut Office of the Child Advocate, Annual Report, October 1, 1999-September 30, 2000, at 6, 7, 10, 11.

⁴⁸DeAlvah Hill Simms, Georgia Office of the Child Advocate for the Protection of Children, Annual Report 2001, at 2.

⁴⁹Michigan Office of Children's Ombudsman, 2001 Annual Report 1999-2000, at 6, 7.

⁵⁰Wash. Rev. Code § 43.06A.010.

During the year 2000, the Washington OFCO received 1,272 inquiries and 269 complaints. The office completed 150 investigations and found that in 138 of the cases, the complaint allegations correctly described the actions of the agency. OFCO further found that in 11 of those 138 cases, the action of the agency clearly violated the law policy or procedure or constituted an unreasonable exercise of discretion.⁵¹ The report exhaustively analyzes the 269 complaints by source, region, issues presented and age of children involved, and each of the eleven adverse findings is described with the finding and the outcome.⁵² The report includes ten recommendations for various improvements to the state's child protection and child welfare system.⁵³ Finally, the ombudsman conducted a survey of the strengths of the foster care system, which consisted of an in-depth interview of 32 foster children, utilizing a systems change approach called "appreciative inquiry."⁵⁴ OFCO budget for the 2001-03 biennium is \$1,031,334, and it has a full-time equivalent staff of six.⁵⁵

Utah. The Utah statute limits the ombudsman to investigation of complaints and makes the office subordinate to the department.

Safeguards

Most of the states with detailed provisions provide for the following safeguards: protection of confidentiality of reports to the ombudsman, protection from retaliation for persons who cooperate with the ombudsman and access by the ombudsman to agency records. Connecticut, Delaware, Georgia, Maine, Michigan, and Washington provide all these safeguards, though in somewhat differing terms. The statutes establishing the Illinois advocacy office and the Kentucky children's ombudsman leave nearly all of the details to regulation.

Characteristics of an Effective Ombudsman

Throughout its deliberations regarding the children's ombudsman statute, the Subcommittee on Accountability was guided by the conclusions of the American Bar Association (ABA), which has advocated the use of ombudsmen in both public and private contexts and, since at least as far back as 1967, has given extensive and thorough consideration to that office. The ABA policies identify three essential characteristics that are necessary to support the effectiveness of the ombudsman: independence in structure, function and appearance; impartiality in

⁵¹Washington Office of the Family and Children's Ombudsman, 2000 Annual Report: Activities and Recommendations, at 7, 11.

⁵²*Id.* at 8-10.

⁵³*Id.* at 20-28.

⁵⁴*Id.* at 29-44.

⁵⁵Washington Office of Financial Management, Agency Activity Inventory, 2001-03 Biennium, at <http://www.ofm.wa.gov/activity/075inv.pdf> (last visited May 9, 2002).

conducting inquiries and investigations; and confidentiality. The children's ombudsman must be independent of the department that administers child welfare services, but must nevertheless be accountable in some fashion. No one who is subject to the ombudsman's review should have the power to eliminate the office, remove the ombudsman or cut the office's resources. The ombudsman must be impartial in investigating complaints, but such a requirement should not preclude advocacy of necessary changes in the system. The third requirement is that the ombudsmen hold information confidential, except as disclosure may be necessary to prevent imminent harm. Standards must assure that information that reveals the identity of complainants is not disclosed without the complainant's consent.⁵⁶ The ombudsman is an avenue for the reexamination of administrative acts, but it has no direct executive or quasi-legislative powers, such as the power to order actions be taken or to overrule decisions by other officials. These limitations help assure independence, impartiality and confidentiality.⁵⁷ Such limitations also avoid direct conflict between the ombudsman and the officials immediately responsible for furnishing child welfare services or affording administrative and judicial review.

Proposed Legislation

The proposed legislation regarding the children's ombudsman statute is largely modeled after the Michigan Children's Ombudsman Act⁵⁸ and is intended to be included as Subchapter D.1 of the Child Protective Services Law (23 Pa.C.S. Chapter 63). The proposed statute also incorporates provisions from the ombudsman statutes of Connecticut, Delaware and Washington.⁵⁹ The primary duty of this office is to serve as an independent venue to assist in the resolution of client complaints.

The ombudsman in the proposed legislation has an independent office within the Governor's office, appointed for a term of five years and removable only for good cause. The ombudsman is not subject to "control, limitation or a penalty imposed for retaliatory purposes by an official of the appointing entity or by a person who may be the subject of a complaint or inquiry."⁶⁰ The ombudsman is not accountable to DPW or the county agencies responsible for child protective services, but is accountable to the Governor as the official with overall executive responsibility.

⁵⁶ABA Report, *supra* note 38, at 5-8 and American Bar Association, Section of Administrative Law and Regulatory Practice, "Standards for the Establishment and Operation of Ombuds Offices," at 3, 4, *available at* http://www.abanet.org/adminlaw/approved_standards.doc (last visited August 28, 2002).

⁵⁷ABA Report, *supra* note 38, at 8, 9 and ABA Standards, *supra* note 56, at 4.

⁵⁸Michigan Children's Ombudsman Act (MCOA), Act 204 of 1994, Mich. Comp. Laws § 722.921 *et seq.*

⁵⁹Conn. Gen. Stat. § 46a-13k *et seq.*, Del. Code Ann. tit. 29 § 9001A *et seq.* and Wash. Rev. Code § 43.06A.010 *et seq.*

⁶⁰ABA Standards, *supra* note 56, at 3.

As noted, impartiality requires the ombudsman to conduct investigations “free of initial bias and conflicts of interest,” while not being precluded from advocating necessary changes.⁶¹ Some measure of impartiality is assured by making the office subject to Senate confirmation, which assures that the ombudsman is considered qualified by the executive and legislative branches of government.

The final core requirement is confidentiality, which assures that claimants can seek out the services of the ombudsman and persons with knowledge of the facts of cases can assist in investigations. The ombudsman should be required to keep information pertaining to a case confidential, and records should not be disclosable outside the ombudsman’s office.⁶² The proposed statute contains strong confidentiality provisions that require the ombudsman to maintain confidentiality and that prohibit disclosure of records except pursuant to a court order.

The following proposed legislation represents a new subchapter of 23 Pa.C.S. Chapter 63 (Child Protective Services). No provision is included regarding immunity from liability for the ombudsman and staff because sovereign and official immunities apply.⁶³

SUBCHAPTER D.1 CHILDREN’S OMBUDSMAN

Sec.

- 6379.1. Short title of subchapter.
- 6379.2. Definitions.
- 6379.3. Children’s ombudsman.
- 6379.4. Powers and duties of ombudsman.
- 6379.5. Investigative and remedial powers.
- 6379.6. Response to complaints.
- 6379.7. Cooperation of agencies and providers.
- 6379.8. Confidentiality of investigators and records.
- 6379.9. Findings and recommendations.
- 6379.10. Protection from retaliation.
- 6379.11. Non-exclusivity of remedy.

§ 6379.1. Short title of subchapter.

This subchapter shall be known and may be cited as the Children’s Ombudsman Act.

§ 6379.2. Definitions.

⁶¹*Id.*

⁶²*Id.*

⁶³*See* 1 Pa.C.S. § 2310 and 42 Pa.C.S. § 8521 *et seq.*

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Administrative agency.” A state or county agency that provides services to a child who is the subject of an investigation conducted by the ombudsman pursuant to this subchapter.

“Child welfare services.” “Child-care services” as defined in section 6303 (relating to definitions). The term does not include child day care centers or group and family day-care homes.

“Complainant.” An individual who makes a complaint pursuant to this subchapter.

“Remediable action.” An action by an administrative agency or an agent of the agency that is:

- (1) contrary to law, rule or policy;
- (2) imposed without an adequate statement of reason; or
- (3) based on irrelevant or erroneous grounds.

§ 6379.3. Children’s ombudsman.

(a) Appointment.--The Governor shall appoint a children’s ombudsman, subject to confirmation by a majority of the membership of the Senate.

(b) Term of office.--The ombudsman shall hold office for a term of five years and shall continue to hold office until his or her successor is appointed. The Governor may reappoint the ombudsman then serving for one additional term, subject to Senate confirmation. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term. An ombudsman who has served part of an unexpired term may serve up to two additional terms.

(c) Removal.--The Governor may remove the ombudsman only for neglect of duty, misconduct or inability to perform duties.

(d) Administrative support.--The ombudsman shall be an autonomous entity within the office of the Governor for purposes of administrative support. The ombudsman shall exercise its powers and duties, including the functions of budgeting, procurement and other management-related functions, independently of the office of the Governor.

§ 6379.4. Powers and duties of ombudsman.

(a) General rule.--The ombudsman shall have the following powers and duties:

- (1) To receive, process and investigate complaints pursuant to this subchapter.
- (2) To identify system issues and responses for the Governor, General Assembly and the Supreme Court and make appropriate recommendations to them concerning issues affecting the welfare of children.
- (3) Subject to annual appropriations, to employ sufficient personnel to carry out the powers and duties prescribed by this subchapter.
- (4) To budget and expend funds.

(5) To take appropriate steps to advise the public of the services of the ombudsman, the purposes of the office and procedures to contact the office.

(6) To prescribe procedures and promulgate regulations as necessary to carry out its powers and duties.

(b) Limitation.--The ombudsman may not overrule an action by an administrative agency or court.

§ 6379.5. Investigative and remedial powers.

The ombudsman may:

(1) Upon its own initiative or upon receipt of a complaint, investigate an alleged remediable action.

(2) Decide, in its discretion, whether to investigate a complaint.

(3) Hold an informal hearing and request that individuals appear before the ombudsman and give testimony or produce documentary evidence that the ombudsman considers relevant to a matter under investigation.

(4) Report findings and recommendations pursuant to section 6379.9 (relating to findings and recommendations).

§ 6379.6. Response to complaints.

(a) Notice.--Upon rendering a decision to investigate a complaint, the ombudsman shall notify the complainant of the decision to investigate and shall notify the department, county agency, child placing agency, and other interested parties of the intention to investigate. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the department, county agency, child placing agency and other interested parties of the decision and of the reasons for the ombudsman's action.

(b) Professional discipline.--If the investigation of a complaint leads the ombudsman to believe the matter complained of may involve professional misconduct, the ombudsman shall bring the matter to the attention of the authorities responsible for professional discipline. If the complaint refers to conduct by an attorney, including a guardian ad litem, or a court appointed special advocate, the ombudsman shall perform a preliminary investigation and transmit the results of that investigation with the referral.

(c) Referrals.--In the case of complaints brought to the attention of the ombudsman but not within the ombudsman's powers under this subsection, the ombudsman shall refer the person making the complaint to a person with the authority or ability to assist that person.

(d) Alternative responses.--The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the ombudsman. Subsequent to the administrative processing of a complaint, the ombudsman may conduct further investigations of any complaint upon the request of the complainant or upon the ombudsman's own initiative.

(e) Criminal violations.--If the ombudsman finds in the course of an investigation that an individual's action is in violation of state or federal criminal law, the ombudsman shall immediately report that fact to the district attorney or

the Attorney General. If the complaint is against a provider of child welfare services, the ombudsman shall refer the matter to the department for further action with respect to licensing.

§ 6379.7. Cooperation of agencies and providers.

(a) Investigations.--The department, county agency, administrative agency or provider of child welfare services shall do all of the following:

(1) Upon the ombudsman's request, grant the ombudsman access to all relevant information, records and documents in its possession that the ombudsman considers necessary in the investigation.

(2) Assist the ombudsman in obtaining the necessary releases for those documents that are specifically restricted.

(3) Provide the ombudsman upon request with progress reports concerning the administrative processing of a complaint.

(b) Public awareness.--Pursuant to regulations promulgated by the department, the department, county agency or provider of child welfare services shall provide information to a biological parent, prospective adoptive parent or foster parent regarding the provisions of this subchapter.

§ 6379.8. Confidentiality of investigations and records.

(a) Matters.--The ombudsman shall treat all matters under investigation as confidential, including the identities of recipients, individuals from whom information is acquired and persons seeking assistance from the ombudsman. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of the information and shall not further disclose or disseminate the information except as provided by applicable state or federal law.

(b) Records.--A record of the office of the ombudsman is confidential, shall be used only for the purposes of this subchapter, and is not subject to court subpoena. Information contained in those records may not be disclosed in such a manner as to identify individuals, except for good cause shown on order of a court. The ombudsman or other agency may not disclose a record of the ombudsman or a record received from the ombudsman under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, except for good cause shown on order of a court. No person may disclose any record under this subsection without the consent of the complainant.

§ 6379.9. Findings and recommendations.

(a) Report of findings.--The ombudsman shall make a report of the findings of an investigation and make recommendations to the department, the county agency, the provider of child welfare services and other appropriate entities if the ombudsman finds any of the following:

(1) A matter should be further considered by the department, the county agency or provider of child welfare services.

(2) An administrative act should be modified or canceled.

(3) Reasons should be given for an administrative act.

(4) Other action should be taken by the department, the county agency or provider of child welfare services.

(b) Subjects of report.--Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, the county agency or a provider of child welfare services, the ombudsman shall provide the subject of the report with reasonable advance notice and an opportunity to respond. When publishing an opinion adverse to the department, county agency or provider, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the subject of the report in defense or mitigation of the action. The ombudsman may request to be notified by the subject of the report within a specified time of any action taken on any recommendation presented.

(c) Notice to complainant.--The ombudsman shall notify the complainant of the actions taken by the ombudsman and by the department, county agency or provider of child welfare services. The ombudsman shall provide the complainant with a copy of its recommendations regarding the complaint.

(d) Annual report.--The ombudsman shall submit to the Governor, the General Assembly, the administrative office of the Supreme Court and the department an annual report on the conduct of the ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.

§ 6379.10. Protection from retaliation.

(a) General rule.--An official, the department, the county agency or a provider of child welfare services may not penalize any person for filing a complaint in good faith or cooperating with the ombudsman in investigating a complaint.

(b) Obstruction.--An individual, the department, the county agency or a provider of child welfare services may not hinder the lawful actions of the ombudsman or employees of the ombudsman.

§ 6379.11. Non-exclusivity of remedy.

The authority granted the ombudsman under this subchapter is in addition to the authority granted under the provisions of:

(1) any other statute or rule under which the remedy or right of appeal or objection is provided for a person; or

(2) any procedure provided for the inquiry into or investigation of any matter.

The authority granted the ombudsman does not limit or affect the remedy or right of appeal or objection and is not an exclusive remedy or procedure.

Conforming Amendments to 23 Pa.C.S.

§ 6303. Definitions.

(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

“Ombudsman.” The children’s ombudsman established by section 6379.3 (relating to children’s ombudsman).

* * *

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(16) the ombudsman.

* * *

Local Complaint Resolution Office

The need for an independent avenue for the resolution of complaints concerning protective services also applies at the local level. To address this gap, the advisory committee approved an amendment to 23 Pa.C.S. Chapter 63 (Child Protective Services) providing for an independent complaint resolution procedure. Little detail is provided in the amendment in order to allow the office to be adapted to the situation and resources in each of the counties. The office would have jurisdiction over complaints under both general protective services and child protective services. Like the statewide ombudsman office, it would investigate complaints and give advice on how they can be resolved. However, it would have no power to overrule agency decisions.

The following is the proposed amendment establishing a local complaint resolution procedure.

§ 6361. Organization for child protective services.

* * *

(d) Complaint resolution.--The county agency shall establish a formal procedure to assist in the resolution of complaints arising in the course of the provision of protective services through personnel other than those employed in the direct provision of protective services.

PERFORMANCE EVALUATION SYSTEMS

The state-supervised, county-administered structure of Pennsylvania's children and youth services delivery system raises accountability problems, because it entails 67 separate delivery systems, each somewhat different from the others. The wide variability in specific procedures across the Commonwealth was noted in the Legislative Budget and Finance Committee Report of 1999.⁶⁴ Specifically, the report found differences in procedures for investigating abuse reports, possibly leading to wide variations in substantiation rates.⁶⁵

Ten states other than Pennsylvania structure their systems in a similar fashion, and several of them have reported problems in cooperating between the state and county levels.⁶⁶ A centralized system appears to have an advantage in standardizing procedures and allocating responsibility clearly. However, there was no sentiment on the advisory committee to centralize the system in order to improve accountability, and there is little hard evidence that such an approach would do so. The provision of child welfare services to individual families is by its very nature a local process, and any centralized system will still be faced with the problem of assuring quality at the local level. Moreover, by removing responsibility from the counties, centralization may tend to drain energy and motivation as well and may also undermine local control. Therefore, the Subcommittee on Accountability attempted to improve the existing structure, rather than undertaking the examination of a radically different one.

Children and Family Service Review (CFSR)

Discussion of accountability of the children and youth services delivery system takes place against the backdrop of the Federal CFSR. This important component of the federal government's child welfare structure is a periodic review mechanism that applies to all the states.⁶⁷ Pennsylvania underwent this review in 2002. The review differs from prior federal oversight of child welfare programs by focusing on outcomes measures, involving collaboration between the

⁶⁴Legislative Budget and Finance Committee, Pennsylvania General Assembly, *Pennsylvania's Children and Youth System: A Performance Audit Pursuant to House Resolution 426* (June 1999).

⁶⁵*Id.* at 68.

⁶⁶*Id.* at 128-132.

⁶⁷This program is authorized by §§ 203(b) and 479A of the Social Security Act (42 U.S.C.A. § 679b). The regulations governing CFSR are at 45 C.F.R. Parts 1355, 1356 and 1357.

state and federal governments and inviting states to improve performance before penalties are imposed. The review has the following major goals.

- (1) To determine the extent to which states are achieving seven outcomes related to child safety, permanency of placement, and child and family well-being, as measured against standards established by the U.S. Department of Health and Human Services (DHHS)
- (2) To assess states' capacity to achieve the outcomes⁶⁸

States are required to undergo review at least once every five years; those not in substantial compliance with federal standards must begin a second review within two years of the acceptance of their program improvement plan (PIP).⁶⁹

The outcomes measures formulated by DHHS,⁷⁰ as shown in the following charts, represent a significant effort to establish objective standards to measure the success of the child welfare program at meeting its goals.

*Federal Outcomes Measures*⁷¹

Goal	Criterion	Performance Indicators
Safety	Children are, first and foremost, protected from abuse and neglect.	(1) Incidence of child abuse or neglect in foster care* (2) Recurrence of maltreatment*† (3) Timeliness of initiating investigations on reports of child maltreatment†
	Children are safely maintained in their homes whenever possible and appropriate.	(1) Services to family to protect children in home and prevent removal† (2) Risk of harm to child†

⁶⁸National Conference of State Legislatures, "Child and Family Service Reviews: Implications for State Oversight of Local Child Welfare Agencies," *26 State Legislative Report*, vol. 26, no. 5 (May 2001).

⁶⁹See 45 C.F.R. § 1355.32(b).

⁷⁰See 45 C.F.R. § 1355.34(b).

⁷¹*Id.* U.S. Department of Health and Human Services, Children's Bureau, "Child and Family Services Reviews Procedures Manual," at 3, A-1, A-2 (2000). Performance indicators verified by statewide data are shown by an asterisk (*), by on site inspection by a dagger (†) and by onsite data by a double dagger (‡).

Goal	Criterion	Performance Indicators
Permanency	Children have permanence and stability in their living situations.	(1) Length of time to achieve reunification* (2) Incidence of foster care re-entries*‡ (3) Stability of foster care placement*‡ (4) Length of time to achieve adoption*‡ (5) Permanency goal for child‡ (6) Provision of independent living services‡ (7) Permanency goal of other planned living arrangement‡
	The continuity of family relationships is preserved for children.	(1) Proximity of foster care placement† (2) Placement with siblings† (3) Visiting with parents and siblings in foster care† (4) Preserving connections† (5) Relative placement† (6) Relationship of child in care with parents†
Child and family well-being	Families have enhanced capacity to provide for their children's needs.	(1) Needs and services of child, parents and foster parents† (2) Child and family involvement in case planning† (3) Worker visits with child† (4) Worker visits with parents†
	Families receive appropriate services to meet their educational needs.	Educational needs of the child†
	Children receive adequate services to meet their physical and mental health needs.	(1) Physical health of the child† (2) Mental health of the child†

States were also evaluated on the following seven systemic factors relating to capacity to deliver services.

- (1) Statewide information system
- (2) Case review system
- (3) Quality assurance system
- (4) Staff training
- (5) Service array
- (6) Agency responsiveness to the community
- (7) Foster and adoptive parent licensing, recruitment and retention⁷²

⁷²See 45 C.F.R. § 1355.34(c).

Following the federal mandate, Pennsylvania's review procedure began with the state's self-assessment of data relating to its program to evaluate the effectiveness of its system in meeting the needs of children and families. The second phase of the review consisted of an onsite inspection of three counties by a review team comprised of federal and state officials, private citizens of the Commonwealth and peer reviewers selected from a nationwide pool. DHHS then completed a final report based on the review to assess substantial conformity with federal standards. Substantial conformity was assessed separately for each of the seven performance outcomes and on the systemic factors. For the indicators using statewide aggregate data, a state must be at the 75th percentile (i.e., in the top quarter of all the states) in order to be in substantial conformity. In order to be determined to be in substantial conformity on any given outcome on the first review, the outcome must be achieved on 90% of the cases reviewed.⁷³

Given the standard applied, it is anticipated that few states will be able to attain substantial conformity on all outcomes measures. The state is required to submit a PIP when the review indicates that the achievement level falls below the threshold for substantial conformity for any of the seven outcomes or for any of the systemic factors reviewed. The plan must be completed within 90 days of the submission to the state of the final report and becomes the vehicle whereby the state and DHHS negotiate a plan to bring the state up to substantial conformity with federal standards. The PIP must be implemented within two years from approval. Failure to attain substantial conformity and complete the PIP may eventually subject the state to the withholding of up to 42% of federal child welfare funds.⁷⁴ It is anticipated that Pennsylvania will be required to submit a PIP.

Statewide Performance Review

The Subcommittee on Accountability recommended that Pennsylvania institute its own ongoing, systematic performance review of its child protective services. The advisory committee agreed. This oversight system is intended to assist the Governor, the General Assembly, the Department of Public Welfare (DPW), the Department of Health and the county agencies to do the following.

- (1) Assess the impact of child welfare and related school and agency services on the Commonwealth's children and families

⁷³45 C.F.R. § 1355(b)(3) and (b)(5). For later reviews, the outcome must be achieved in 95% of cases reviewed.

⁷⁴The withholding formula is one percent of the funds distributed through Titles IV-B and IV-E of the Social Security Act for each area of outcome and systemic noncompliance. Each round of review increases potential withholding by one percent. Therefore, a state that fails on each of the 14 outcome and systemic standards will lose 42% of the federal funds on the third round of review.

- (2) Identify challenges requiring new and more effective approaches and recommend evidence-based strategies to strengthen service delivery impact
- (3) Build on and supplement existing performance measure systems, such as CFSR
- (4) Serve as a key component of the PIP and help assure that the Commonwealth continues to receive its fair share of federal funding

The Subcommittee on Accountability concluded that the Commonwealth should not rely completely on the federal review scheme to assure the quality of its system. Review as prescribed by the CFSR is slated to occur once every five years. Furthermore, the perceived burden of the CFSR process has reportedly made it likely that the next round of review will be conducted in a less ambitious form. Finally, creation of its own evaluation system allows the Commonwealth to develop additional outcomes and measures that may be useful in augmenting the federal scheme.

In order to ensure the effectiveness of this review, it is recommended that the review be performed by means of a three-year comprehensive study by an independent outside group. This approach will provide for independent evaluation and avoid the creation of a new bureaucracy. This review should be coordinated with the timeline of the PIP.

Local Case Monitoring

Ensuring that the counties monitor individual cases is as important as the statewide quality review. The present legislative structure comprises two formal mechanisms for local oversight. The first of these is the multidisciplinary team (MDT), which is intended to assure that randomly selected cases receive periodic review, difficult cases receive input from all the disciplines that are relevant to servicing the child and proper action is taken in cases of chronic reabuse.⁷⁵ In complex cases, a major problem is the coordination of child protective services with several social service agencies, such as mental health/mental retardation, drug and alcohol treatment, education, housing and law enforcement.

With the cooperation of the County Commissioners Association of Pennsylvania, a survey of the county agencies was conducted to evaluate the effectiveness of MDTs. Thirty-nine county agencies responded.⁷⁶ County

⁷⁵See 23 Pa.C.S. § 6365(b). Multidisciplinary teams were mandated to counties since at least the original codification of the Child Protective Services Law under the Act of December 19, 1990 (P.L.1240, No.206).

⁷⁶Participating counties were Adams, Allegheny, Armstrong, Beaver, Blair, Bucks, Cameron, Carbon, Centre, Chester, Clearfield, Columbia, Cumberland, Delaware, Elk, Erie, Forest, Franklin, Jefferson, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Montgomery, Northampton, Perry, Philadelphia, Potter, Schuylkill, Susquehanna, Venango, Warren, Washington, Westmoreland and York

agencies differed on such features as the composition of the MDT, frequency of meeting, selection of cases for review, use of written protocols and means of ensuring the implementation of MDT recommendations. Several respondents to the survey pointed out that the performance of MDTs could be improved.

The Subcommittee on Accountability concluded the following, which the advisory committee supported.

- (1) The practice of the MDTs should be streamlined through a DPW best practices manual that sets forth guidelines regarding such matters as team responsibilities, suggested frequency of meetings and suggested disciplines to be represented on the team. The protocol should include a procedure whereby the information that may indicate recurring case patterns and service gaps will be shared with the regional offices of DPW in connection with the needs based budgeting process. It is suggested that DPW build on existing best practices of county MDTs in formulating the guidelines. Because the counties differ considerably in such factors as caseloads to be reviewed and the availability of professionals to participate in MDTs, it would not be advisable for DPW to impose a mandatory regulatory scheme or protocol on the counties.
- (2) DPW should develop training materials for members of MDTs, including written materials, tapes, CDs and other media, in order to make training as convenient for professionals as possible. In order to avoid duplicative professional training, the program should be coordinated with such available modes as competency-based training and continuing legal and medical education.
- (3) The regulation governing selection of cases for review (55 Pa. Code § 3490.62), which presently focuses on re-abuse, should also include such factors as the nature and severity of allegations, future risk to the child, and the involvement of other systems with the family. Counties should be given some discretion to pass over cases of recurring reports of abuse that are not substantiated, where the case has already been reviewed by the MDT.
- (4) Regulations should permit MDTs to select general protective services cases for review, based on established criteria, including complexity or multidisciplinary involvement, failure to show progress toward goals established in the family service plan and indications that removal of the child from the family is required.
- (5) Review of the case investigations themselves is best left to the supervisor and the caseworker, except in cases where ordinary case handling is not sufficient.

The second mechanism for ensuring local case review is the investigative team established by 23 Pa.C.S. § 6365(c), which is responsible for assisting in the handling of cases where serious criminal charges are likely. The mandate for establishing investigative teams was enacted in 1998.⁷⁷ Under this provision, county agencies and district attorneys are required to establish protocols to govern the appointment and operation of the county team. While several counties have effectively used investigative teams to improve collaboration between the county agency and law enforcement, some counties have failed to arrive at a protocol, and others appear to have failed to establish the interdisciplinary team at all. The advisory committee strongly urges counties that have not fully implemented 23 Pa.C.S. § 6365(c) to make it a priority to do so. The committee also calls on DPW and the appropriate committees of the General Assembly to monitor county agency compliance with this statutory mandate.

For particularly difficult cases, the Attorney General has established a statewide Medical/Legal Advisory Board on Child Abuse to provide professional consultation to the child protective services, prosecution and law enforcement communities. The board is comprised of about 50 members, meets six times a year and is free of charge to the counties. The subcommittee noted that the board's expertise is particularly useful in cases where the evidence appears to be inconclusive or contradictory, or where the significance of medical or scientific evidence is either unknown or unclear. However, not enough use is made of this resource, especially by counties that have a shortage of lawyers and medical doctors to serve on their MDTs. The advisory committee urges all county agencies to become aware of the Medical/Legal Advisory Board on Child Abuse and to avail themselves of its services in appropriate cases.

⁷⁷Act of December 15, 1998 (P.L.963, No.127).

ACCOUNTABILITY AND DATA COLLECTION

The Subcommittee on Accountability discussed one of the most important components of any evaluation system: an adequate system for the collection of data. It must be comprehensive enough to allow the Department of Public Welfare (DPW) and the counties to monitor the performance of the system, yet not so burdensome as to hamper caseworkers and supervisors in their other duties. Another basic requisite is that an effective procedure be developed to allow the analysis of the data collected in such a manner as to usefully inform policy initiatives.

State child welfare systems rely on two nationwide data collection systems. The first is the National Child Abuse and Neglect Data System (NCANDS), which consists of both a compilation of key aggregate child abuse and neglect statistics compiled annually by the states and a compilation of case-level information from child protective services agencies on children who are subjects of reports alleging child maltreatment. The other system is the Adoption and Foster Care Analysis and Reporting System (AFCARS), a system for collecting data on children in foster care and children who were adopted under the auspices of the state child welfare agency.⁷⁸ These systems are used for reporting data to the U.S. Department of Health and Human Services and by the states and counties for planning purposes.

In response to federal requirements for the monitoring and reporting of adoption and foster care services, DPW undertook to create the Pennsylvania Automated Child Welfare Information System (PACWIS). PACWIS was an ambitious attempt to integrate data collection at all levels of child welfare service planning and delivery into the informational component of a comprehensive results-based management system. Commencing in 1998 and originally scheduled to become operative by July 2000, the project encountered difficulties, among them inadequate software and networking and problems balancing county agency requests for customization with efficiency. These problems caused DPW to abandon PACWIS and begin plans for a more simplified system, which is expected to become fully operational by 2005.⁷⁹

⁷⁸John D. Petulla, director, Bureau of County Children and Youth Programs, DPW, Memorandum entitled "Description of AFCARS and NCANDS Federal Data Reporting" (2002).

⁷⁹John D. Petulla, memorandum to commission staff on independent validation and verification assessment of PACWIS (undated 2002); DPW informational memorandum entitled "PACWIS" (undated).

Among the most important issues that must be addressed in that overhaul is the reporting of general protective services cases. Cases handled by children and youth services agencies are classified by statute into two broad categories: child protective services⁸⁰ and general protective services. Child protective services (CPS) refers to cases of alleged abuse or serious physical neglect; general protective services (GPS) refers to “nonabuse cases requiring protective services,” meaning neglect cases where the neglect does not come to the level of serious physical neglect.⁸¹ The bulk of the cases for county agencies are GPS cases - reportedly as many as 80% - but these are not reported as comprehensively as CPS cases. Because little data is collected on GPS cases, discussion and policy analysis of these cases is hampered. Improving data collection for GPS cases is important not only for the handling of the cases themselves, but also because many of the cases requiring court intervention begin as GPS cases. Analysis of these cases would therefore appear crucial in the formulation of policy regarding prevention services.

The reporting system should include systematic comparisons relating to GPS and CPS cases using the following elements.

- (1) The number of cases originating in each system
- (2) The number of cases where court petitions are filed
- (3) The number of children who enter placement
- (4) The number and types of services offered
- (5) The length of time in placement
- (6) The number of court dispositions of each type (e.g., reunification, adoption, placement with other relative)
- (7) The total length of time in the child welfare system

GPS data should be reported on the same basis as data on CPS cases and should be included in DPW’s annual report on child abuse, along with relevant analysis, including trends that are apparent from the data. Case data should reflect all cases known to the child welfare system, including those which have not been accepted for service.

⁸⁰Confusingly, “child protective services” can also refer to both classes of cases, e.g., in the statutory short title “Child Protective Services Law” in 23 Pa.C.S. Chapter 63.

⁸¹See 23 Pa.C.S. § 6303, especially the definitions of “child abuse,” “protective services,” “child protective services” and “general protective services.” The provisions of the Child Protective Services Law that apply specifically to general protective services are at 23 Pa.C.S. §§ 6373-6376.

OPENING DEPENDENCY COURT PROCEEDINGS

The Subcommittee on Accountability focused considerable time and effort on the issue of opening courts to the public. This issue has been brought to the forefront of public attention in Pennsylvania largely due to a series of articles in the *Pittsburgh Post-Gazette*, written by Barbara White Stack, a veteran correspondent on child welfare and delinquency issues.⁸² While she presented some arguments in favor of keeping court proceedings closed, the bulk of her commentary supported joining what she presented as a trend toward adoption of a rule that family court hearings, including those involving child abuse and neglect, would be open to the press and the public. The articles argue that open hearings may be required by the Open Courts Clause of the Pennsylvania Constitution⁸³ and that closing them is inconsistent with the practice governing related proceedings, such as trials of juveniles charged with serious crimes.⁸⁴ Opening the hearings promotes fairness by allowing the parties to bring to the public their respective sides of the story.⁸⁵ By keeping public attention on the child welfare system, open hearings encourage the public to devote adequate resources to the system and to apply pressure for needed reforms.⁸⁶ Opening hearings improves practice by judges, attorneys and other participants, according to Chief Justice Judith S. Kaye of the New York State Court of Appeals, the state's highest court.

“[O]pening the hearings is good, sound court administration. You want your court functioning in top-flight condition. Having the court open to the press and public goes hand in glove with that. If you keep this court closed, then a lot of bad habits and corner

⁸²See the following articles by Barbara White Stack in the *Pittsburgh Post-Gazette* at <http://www.post-gazette.com>: “The Trend Toward Opening Juvenile Court Is Now Gaining Momentum,” “Oregon’s Constitution Unlocks Juvenile Courts,” “Two-Sided Tale: Single Mom vs. the Judge” and “States That Have Opened or Closed Hearings” (September 23, 2001); “Open Justice: Little Girl’s Murder Brought New York’s Juvenile Court Proceedings into the Light,” “Freedom to Speak Can Lead to Reform,” “In Illinois, Acceptance” and “Visibility Boosts Credibility” (September 24, 2001); “Mothers Stir up the Media to Get Back Their Children,” “If Names Are Public, Are Kids Harmed?” and “Critics Say Reforms Needed in Closed Courts” (September 25, 2001) and “Panel to Study Opening Hearings on Abuse” and “Few Problems, Benefits in Open Hearings” (September 30, 2001).

⁸³Constitution of Pennsylvania, art. I, § 11.

⁸⁴Barbara White Stack, “The Trend Toward Opening Juvenile Court Is Now Gaining Momentum” and “Oregon’s Constitution Unlocks Juvenile Courts,” *supra* note 82.

⁸⁵Barbara White Stack, “Two-Sided Tale: Single Mom vs. the Judge” and “Mothers Stir up the Media to Get Back Their Children,” *supra* note 82.

⁸⁶Barbara White Stack, “Oregon’s Constitution Unlocks Juvenile Courts,” “Open Justice: Little Girl’s Murder Brought New York’s Juvenile Court Proceedings into the Light,” “Freedom to Speak Can Lead to Reform” and “Critics Say Reforms Needed in Closed Courts,” *supra*, note 82.

cuttings that goes on when things are out of sight fester and grow.
That is not good for children.”⁸⁷

Ms. Stack notes that presumptive opening appears to have worked well in states where it has been in effect, including New York, Illinois, Iowa and Oregon.⁸⁸ However, an independent analysis of the effects of this policy in Minnesota found no conclusive advantages or disadvantages.⁸⁹

Ms. Stack’s articles argue that closure, on the other hand, is undemocratic, undermines public faith in the child welfare system and spawns misinformation.⁹⁰ The main beneficiaries of the closed system are stakeholders who can use it to conceal unprofessional practices, such as attorneys representing clients they have never interviewed or conducting hearings in the absence of a judge.⁹¹ Critics of this reform cite possible damage to the children involved or their siblings and the invasion of their privacy rights.⁹² This concern can be mitigated, however, by the court’s request that the victim’s name not be published, which is usually honored by professional journalists, and by the court’s retaining discretion to close hearings when necessary to protect children.⁹³

The *Post-Gazette* has sued to open the proceedings in a child abuse case in Westmoreland County⁹⁴ and has come out editorially in support of the same position.

Too often a closed juvenile hearing system merely gives cover to a malfunctioning child welfare system, which offers some children too little protection too late. Not only do society’s most vulnerable citizens deserve better, the public also has a right to see how that arm of the court functions - just as it can monitor the quality of justice dispensed by adult courts.

⁸⁷Barbara White Stack, “Open Justice: Little Girl’s Murder Brought New York’s Juvenile Court Proceedings into the Light,” *supra* note 82.

⁸⁸*Id.*; Barbara White Stack, “The Trend Toward Opening Juvenile Court Is Now Gaining Momentum” and “In Illinois, Acceptance,” *supra* note 82.

⁸⁹Barbara White Stack, “Few Problems, Benefits in Open Hearings,” *supra* note 82.

⁹⁰Barbara White Stack, “The Trend Toward Opening Juvenile Court Is Now Gaining Momentum,” “In Illinois, Acceptance” and “Visibility Boosts Credibility,” *supra* note 82.

⁹¹Barbara White Stack, “Critics Say Reforms Needed in Closed Courts,” *supra* note 82.

⁹²Barbara White Stack, “The Trend Toward Opening Juvenile Court Is Now Gaining Momentum,” “Open Justice: Little Girl’s Murder Brought New York’s Juvenile Court Proceedings into the Light” and “Mothers Stir up the Media to Get Back Their Children,” *supra* note 82.

⁹³Barbara White Stack, “If Names Are Public, Are Kids Harmed?” and “Critics Say Reforms Needed in Closed Courts,” *supra* note 82.

⁹⁴Barbara White Stack, “PG Seeks Public Hearing in Child Abuse Case,” *Pittsburgh Post-Gazette*, October 27, 2001.

Minnesota has joined the list of enlightened states that holds this view. Pennsylvanians can only hope that someday their state will be there, too.⁹⁵

The Public Guardian, a public official in Cook County, Illinois, who has represented abused and neglected children for almost thirty years, strongly supports opening child welfare court proceedings.

The media should have complete access to every juvenile courtroom and be able to report on what occurs there while normally withholding the names of children. The media, and members of the public for good cause, should also have access to files of children seriously harmed while in the substitute care system.

Open government usually works. Even if it doesn't work on every occasion, it has the opportunity to work because the public, through the media, can scrutinize it and demand reform. Closed government, as we have seen in Eastern Europe and the former Soviet Union, usually fails.⁹⁶

In Minnesota, dependency court proceedings were opened effective July 1, 2002, by order of that state's Supreme Court. The Minnesota Court relied on the report of a task force on foster care and adoption, which based its recommendation on the following four conclusions.⁹⁷

- (1) Under a closed system, the juvenile protection system lacks accountability because such a system allows lack of - and abuses of - funding for children's services to continue without public scrutiny.
- (2) Under a closed system, child abuse and neglect decisions are not truly based on community standards, thus undermining the purpose of local control.⁹⁸
- (3) Closed hearings are out of step with the opening of criminal proceedings arising from child abuse and open hearings on dissolution and custody matters. Furthermore, the press is free to publish information on child abuse cases lawfully obtained from other sources, such as witness interviews.

⁹⁵“Editorial: Courting Justice/Juveniles Deserve the Protection of Open Hearings,” *Pittsburgh Post-Gazette*, January 14, 2002.

⁹⁶Patrick T. Murphy, *Wasted: The Plight of America's Unwanted Children* 118 (1997).

⁹⁷Advisory Committee on Open Hearings in Juvenile Protection Matters, “Introduction to Final Report of National Center for State Courts” (2001).

⁹⁸In Minnesota, juvenile protection and foster care programs are funded by the counties. *Id.* at 6.

- (4) Michigan has had open courts for several years, and the anticipated negative consequences have not emerged.⁹⁹

The new policy in Minnesota did not have unanimous support among the task force members, however. Opponents cited emotional harm and embarrassment to children, a possible chilling effect on reporting of abuse by children and media sensationalization of family secrets, which in their view outweighs the potential benefits.¹⁰⁰

The Pennsylvania Juvenile Court Judges' Commission (JCJC) arrived at a consensus to "support the concept of opening dependency proceedings and termination of parental rights proceedings to the press provided that the court would have broad discretion to close the proceedings and otherwise limit access to protect the identity of the child."¹⁰¹

Current Law

The statutory law on the issue of public access to proceedings under the Juvenile Act (42 Pa.C.S. Chapter 63) is restrictive. The Act generally mandates exclusion of the general public from such hearings, except the following.

- (1) Hearings to declare a person in contempt of court
- (2) Delinquency hearings if the child was 14 years of age or older at the time of the alleged conduct and the conduct would be considered a felony if committed by an adult
- (3) Delinquency hearings if the child was 12 or older at the time of the alleged conduct and the conduct would constitute one of ten specified serious offenses if committed by an adult

In closed proceedings, only the parties, counsel, witnesses, the victim, counsel for the victim, other persons accompanying a party or victim for his or her assistance and other persons that the court finds to have a proper interest in the proceeding or in the work of the court may be admitted. The court may temporarily exclude the child from the hearing, except while allegations that the child is delinquent are being heard. Even if otherwise required or permitted to be open, proceedings are closed upon and to the extent of any agreement between the child and the attorney for the Commonwealth. At disposition proceedings, the court has discretion to maintain the confidentiality of mental health, medical and juvenile institutional documents and juvenile probation reports.¹⁰²

⁹⁹*Id.* at 6, 7.

¹⁰⁰*Id.* at 8.

¹⁰¹Minutes of Meeting of Juvenile Court Judges' Commission, March 22, 2001. (Supplied to the Joint State Government Commission by James E. Anderson, executive director of the JCJC).

¹⁰²42 Pa.C.S. § 6336(d), (e) and (f).

Like the rest of the original enactment of the Juvenile Act, 42 Pa.C.S. section 6336 was adapted from the Model Juvenile Court Act as proposed by the National Conference of Commissioners on Uniform State Laws in 1968.¹⁰³ The Commission's official comment to the section implies that the position on closure was adopted mainly to respond to delinquency cases, although, from the outset, the Juvenile Act has covered other children.¹⁰⁴

It should be noted that even under the present law, which is generally interpreted to bar the press and the public from dependency proceedings, judges have discretion to admit members of the public upon a finding that individuals admitted have "a proper interest in the proceeding or in the work of the court."

Pennsylvania appellate courts have addressed the issue of public access to court proceedings. For litigants other than the media or others who can claim rights under the First Amendment, the issue of access is governed by a common law presumption. Under the common law approach, every person is entitled to access for a useful purpose, but not for mere curiosity. The court's supervisory powers over proceedings permit closure where access could become a vehicle for a harmful or improper purpose. The public may be excluded to protect private or public interests, including protection of trade secrets or the privacy and reputations of innocent parties, to guard against the danger of an unfair trial due to adverse publicity or to protect national security. The decision ordinarily rests within the sound discretion of the trial court and may be overturned only where the trial court has abused that discretion. Among the factors to be considered are the nature of the litigation. Divorce litigants, for example, have a greater privacy interest than those in a medical malpractice case, since one of the purposes of malpractice is to inform professionals of the proper standard of care.¹⁰⁵ Cases decided under the common law balancing test are controlled by applicable statutes, unless the statute is found to violate the Constitutional rights of a party, such as the right to privacy.

Cases involving access rights of the press bring the First Amendment into play. Recent federal cases have recognized a right of the media to access civil trials to ensure an informed discussion of public affairs. This right, however, is not absolute, and may be overcome where the party opposing access shows good cause for closure by establishing that disclosure will work a "clearly defined and serious injury" to the party.¹⁰⁶ Divorce proceedings have received protection against public scrutiny because they deal with matters of an essentially private nature where disclosure does not serve any useful public purpose and may embarrass and humiliate the parties. The trial court may therefore close divorce

¹⁰³While the Commissioners propose statutes intended to be adopted by all states, the only other states that have adopted versions of this Model act are Georgia and North Dakota.

¹⁰⁴As originally enacted by the act of December 6, 1972 (P.L.1464, No.333), the Juvenile Act covered "deprived" as well as delinquent children (§ 2(3)).

¹⁰⁵*Katz v. Katz*, 514 A.2d 1374 (Pa. Super. 1986); *R.W. v. Hampe*, 626 A.2d 1218 (Pa. Super. 1993).

¹⁰⁶See *Katz* at 1379 and *Hutchison v. Luddy*, 581 A.2d 578, 582 (Pa. Super. 1990).

proceedings to the public, but only where the party favoring closure can show good cause by pointing to a clearly defined and serious injury that would result from disclosure. Once the party opposing disclosure has attempted to show good cause for opening the hearing, the trial court may exercise its discretion in deciding whether to open the hearing. The decision will not be overturned unless it is determined that the court abused its discretion.¹⁰⁷ One difference between the common law balancing approach and the First Amendment approach is that in First Amendment cases, the opponent of disclosure must show that denial of access serves an important governmental interest and there is no less restrictive means of serving that interest. At least in civil cases, analysis under the Open Courts clause of the Pennsylvania Constitution is similar to that under the First Amendment.¹⁰⁸ Proceedings under the Juvenile Act also typically involve personal details that are embarrassing to the parties concerned. However, such cases provide occasion to evaluate the performance of a public agency, whereas divorce cases rarely do.

While it is conceivable that the opening of a court proceeding could implicate a Constitutional right,¹⁰⁹ such as the right to privacy, no Pennsylvania appellate cases to date have overturned a lower court's opening of a proceeding on any such ground.

Representation in Dependency Proceedings

The advisory committee observed that the overriding consideration for favoring open hearings is to assure that the hearings are handled competently by the court, the attorneys for all parties and the county agency. The advisory committee reported that court proceedings in dependency matters are often of poor quality, reflecting lack of training and preparation by judges, masters, attorneys and caseworkers. In the case of attorneys, a recent study of representation in dependency proceedings in Pennsylvania made the following findings.

- (1) A substantial number of attorneys do not meet their clients prior to scheduled hearings or other proceedings.
- (2) Lawyers are not adequately investigating their child-clients' cases.
- (3) Attorneys are not participating fully in all aspects of dependency proceedings.
- (4) Lawyers' roles are not clearly delineated or understood.
- (5) Too many attorneys who represent children are untrained.
- (6) Caseload size ranges widely (i.e., from one to almost 1,500 cases per lawyer).

¹⁰⁷ See *Katz*.

¹⁰⁸ See *Hutchison v. Luddy*.

¹⁰⁹ See *In the Matter of Seegrist*, 539 A.2d 799 (Pa. 1988).

(7) Compensation rates vary widely.¹¹⁰

Although this recent study did not advocate opening dependency hearings, as Chief Justice Kaye of the New York State Court of Appeals noted, placing the hearings under public scrutiny may raise the level of practice. The Pennsylvania Superior Court has also noted the importance of public access to the judicial system in assuring competent representation.

It is desirable that the trial of [civil] causes should take place under the public eye . . . not because the controversies of one citizen with another are of public concern, but because it is of the highest moment that those who administer justice should always act under the sense of public responsibility, and that every citizen should be able to satisfy himself with his own eyes as to the mode in which a public duty is performed.¹¹¹

Proposed Legislation

After considerable deliberation, the advisory committee recommended that dependency proceedings be presumed to be open to the public, subject to closing in whole or in part by the presiding judge or master. However, there was some opposition to the recommendation, and concerns were raised regarding the effect of open court proceedings on children and families.

The decision to close a particular hearing should be made by the trier of fact, either on his or her own initiative or upon motion. In either case, the decision to close the hearing should be supported by a finding of exceptional circumstances necessitating the closure. The judge or master should have broad discretion, however, to conduct portions of the proceedings on a closed basis or in chambers, particularly for receiving the testimony of the child. To avoid delay in deciding the matter, the question of whether and to what extent the hearing is open should usually be handled by motion, sidebar conference or a similar colloquy before the substantive hearing, not by a separate hearing on the openness issue alone.

Where the proceeding is conducted on an open basis, the courtroom should be open to the public. Information in the court case would not be confidential, unless specific items are determined to be confidential by ruling of the judge or master. However, agency records should be protected from public inspection, except for orders and findings of the court, and except in cases

¹¹⁰Susan A. Snyder, *Promises Kept, Promises Broken: An Analysis of Children's Right to Counsel in Dependency Proceedings in Pennsylvania*, at 23-44 (2001).

¹¹¹*R.W. v. Hampe* at 1221 (quoting Justice Oliver Wendell Holmes, Jr.).

involving the death of the child. Television and other audio-visual coverage should be strictly prohibited.¹¹²

Based on the foregoing recommendations, the advisory committee approved the following statutory language amending 42 Pa.C.S. Chapter 63 (relating to juvenile matters). This proposed amendment to section 6336 only applies to dependency proceedings. The advisory committee expressed no opinion on the issue of opening delinquency proceedings, because that issue is beyond the scope of this study.

§ 6336. Conduct of hearings.

* * *

(d) Proceeding in camera.--Except in hearings to declare a person in contempt of court and in hearings as specified in subsection (e), the general public shall be excluded from hearings under this chapter concerning a child alleged to be delinquent. Only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court shall be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency are being heard.

(e) Open proceedings.--The general public shall not be excluded from any hearings under this chapter concerning a child alleged to be delinquent:

(1) Pursuant to a petition alleging delinquency where the child was 14 years of age or older at the time of the alleged conduct and the alleged conduct would be considered a felony if committed by an adult.

(2) Pursuant to a petition alleging delinquency where the child was 12 years of age or older at the time of the alleged conduct and where the alleged conduct would have constituted one or more of the following offenses if committed by an adult:

(i) Murder.

(ii) Voluntary manslaughter.

(iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(v) Involuntary deviate sexual intercourse.

(vi) Kidnapping.

(vii) Rape.

(viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(ix) Robbery of motor vehicle.

¹¹²Pa. Code of Judicial Conduct, Canon 3A(7)(d) does not permit such coverage of support, custody or divorce proceedings, or a non-jury civil proceeding if any witness or party expresses a prior objection.

(x) Attempt or conspiracy to commit any of the offenses in this paragraph.

Notwithstanding anything in this subsection, the proceedings shall be closed upon and to the extent of any agreement between the child and the attorney for the Commonwealth.

(e.1) Dependency proceedings.--

(1) Hearings under this chapter concerning a child alleged to be dependent shall be open to the public. The general public or any person may be excluded from proceedings only if the presiding judge or master determines, on an individualized basis, based upon supporting evidence, that exceptional circumstances require such exclusion in that case. Whenever the judge or master orders the exclusion of any person or the general public from a proceeding or part of a proceeding, the judge shall make findings prior to ordering the exclusion. The decision of whether to close a proceeding shall be made without a separate hearing on that issue and may be made either upon motion or sua sponte.

(2) The judge or master may order the exclusion of the general public or any person from a part of the proceeding, including the testimony of the child or any party or witness. A decision under this paragraph shall be at the discretion of the judge or master, and may be reviewed only for abuse of discretion.

(3) This subsection does not limit the applicability of 23 Pa.C.S. section 6339 (relating to confidentiality of reports) or 6340 (relating to release of information in confidential reports).

(4) A judge or master may not authorize the use of electronic broadcasting, televising, recording or taking photographs in the courtroom, hearing room, or areas immediately adjacent thereto during sessions or recesses between sessions of any hearing concerning a child alleged to be dependent.

(f) Discretion of court.--The court at any disposition proceeding under subsection (e) or (e.1) shall have discretion to maintain the confidentiality of mental health, medical or juvenile institutional documents or juvenile probation reports.

CONFIDENTIALITY

The Subcommittee on Accountability discussed confidentiality issues and the sharing of information. It stated that the need for confidentiality must be balanced against important interests that require sharing of information between agencies and with the public.

Access Versus Privacy

The conflicting considerations bearing on disclosure and confidentiality have been well described by the ABA Center on Children and the Law and the National Center for Youth Law.

Access to confidential information is essential to child welfare agencies. To properly investigate reports of child abuse and neglect, caseworkers may need to review child protection reports from other counties or states, criminal records, educational records, mental health reports, substance abuse information, medical files, public benefits records, military records, and service provider reports.

There are many circumstances in which agencies need confidential information to investigate child maltreatment and to decide whether to remove children from home. For example, a parent or other member of the household may have a criminal record of child abuse, domestic violence, or of using illegal substances. Knowing about the criminal record helps the agency decide whether and how to intervene with the family.

Other examples include: A treating psychiatrist has information on a parent's bi-polar disorder that can help the agency decide whether the parent's condition affects his ability to care for the child and, if so, whether the child can safely remain at home and under what conditions. A drug treatment program will have information about whether the parent is progressing or has suffered a relapse. Several local hospitals have information on prior medical treatment of a child requested by a parent suspected of Munchhausen Syndrome by Proxy.

Note that all of the above information may be subject to federal confidentiality provisions. In addition, without efforts by the agency, the above information may never come to its attention. That is, the information is probably not covered by the child abuse and neglect reporting acts.

Confidential information is also vital to permanency planning. Without complete information, the agency cannot wisely decide whether to work toward family reunification.

For example, if a parent has a severe mental illness, the agency needs the parent's full treatment history when it first becomes involved in the case. This will help the agency decide whether it is realistic to expect that the parent will improve enough to return the child home safely within a reasonable time. On the other hand, if there will be reunification efforts, the agency needs treatment history to form a well designed plan.

Similarly, if a parent has a substance abuse problem, the agency needs to know the prior treatment history to decide whether new treatment and reunification efforts are justified. If there will be further treatment, the agency needs treatment history to decide the future course of the service plan. Leads can come from criminal records checks, and inquiries to known drug or alcohol treatment providers.

In developing policies concerning confidentiality and information sharing, child welfare agencies must reconcile competing interests: protecting the privacy rights of children and families, while also ensuring that confidentiality requirements do not create barriers to the necessary gathering and sharing of information. . . .

Interests in protecting information include:

- (1) The core interest in privacy, family autonomy, and the right to be let alone
- (2) Avoiding embarrassment and humiliation, such as through disclosing details of sexual abuse
- (3) Avoiding exposing inflammatory information, such as HIV status
- (4) Protecting personal and family security, such as in domestic violence situations
- (5) Protecting job security
- (6) Avoiding prejudicial or biased treatment, such as discriminating against individuals who have sought mental

health counseling or treating children differently because they are in foster care

- (7) Encouraging individuals to seek help and treatment; and
- (8) Reestablishing privacy for children, particularly those who have been abused. . . .

Other reasons to share information include conducting assessments and evaluations for services, providing family-focused services, coordinating service plans and strategies and avoid[ing] duplicating services, monitoring service providers, allowing research on community needs and program effectiveness, promoting public safety, and securing payment for services.¹¹³

Proposed Legislation

The Subcommittee on Accountability observed that a systematic consideration of confidentiality and information sharing is necessary, as few issues have created more frustration and confusion for public officials, professionals and the affected public. Ideally, this issue should be systematically addressed across the entire range of human service programs. The proper drafting of confidentiality provisions requires balancing confidentiality interests against legitimate necessities for disclosure, in the context of different types of information to be furnished (or not) to different potential recipients, while complying with federal statutes with varied confidentiality requirements depending on what program the record pertains to. This proved to be beyond the subcommittee's abilities within the time provided for the study.

The Child Protective Services Law (CPSL), 23 Pa.C.S. Chapter 63, includes a detailed provision governing access to child welfare agency records relating to abuse and neglect.¹¹⁴ At present, there are no rules governing access in dependency proceedings where the child lacks adequate supervision and control, but no abuse or neglect is demonstrated. Therefore, the most immediate task is to draft a provision covering access to agency records in the context of dependency cases.

In the absence of a broader solution, the advisory committee supported the subcommittee's proposals regarding the issues of disclosure of confidential child protection records to non-mandatory reporters, foster parents and the Auditor General.

¹¹³Alice Bussiere, et al., *Sharing Information: A Guide to Federal Laws on Confidentiality and Disclosure of Information for Child Welfare Agencies*, 2-4 (1997).

¹¹⁴23 Pa.C.S. §§ 6339 and 6340.

Non-Mandatory Reporters

Under present law, persons who are not required by professional status to report child abuse under section 6311 of the CPSL are permitted to make such reports to Children and Youth Services (CYS) under section 6312 upon reasonable cause to believe that a child is an abused child. All good faith reporters are granted immunity from civil and criminal liability by section 6318.

The advisory committee agreed that it is in the public interest to encourage private citizens to come forward with these reports, as they bring possible abuse and neglect cases to the attention of CYS. Present law in effect forbids caseworkers from making any disclosure to non-mandatory reporters. Since reporters receive no response to inquiries to CYS, it is possible that present policy discourages reporting of child abuse and neglect. An acknowledgement of the receipt of the report would protect confidential information, while helping to enhance public confidence in the agency.

Presently, six states make some provision for disclosure to non-mandatory reporters, at least at the discretion of the agency. Another two states require all citizens to report child abuse and the agency to provide some disclosure to reporters. Under the statutes of all eight of these states, disclosure to reporters is limited in order to protect the child and parents who are the subject of the report.

The advisory committee supported the recommendations that the General Assembly consider adopting legislation requiring county agencies to make limited disclosure to non-mandatory reporters. CYS agencies should be directed to acknowledge receipt to non-mandatory reporters within ten days of receipt of the report. CYS should be directed to advise reporters of basic information (perhaps in the form of a brochure) concerning the nature of the agency and its procedures to enable the reporter to understand the child protection process and why it is inappropriate to disclose information that would violate confidentiality. County agencies should be required to send the acknowledgement to the reporter unless the reporter waives the notice. Statutory language implementing this suggestion is set forth as follows and amends 23 Pa.C.S. Section 6340. The major thrust of this proposal is the addition of paragraph (12.1). Paragraphs (12) and (13), relating to notice to mandatory reporters, are amended to conform to the changes for non-mandatory reporters.

Proposed Amendment to 23 Pa.C.S. Chapter 63 (Child Protective Services)

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(12) A mandated reporter of suspected child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made

a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

(i) The final status of the child abuse report following the investigation, whether it be indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

A county agency shall also send written acknowledgement of receipt of the report of abuse to the reporter within ten days of receipt of the report by the agency.

(12.1) Any person reporting child abuse pursuant to section 6312 (relating to persons permitted to report suspected child abuse). Within ten days of the receipt of the report of abuse by the county agency, the agency shall send the reporter written acknowledgement of receipt of the report of abuse, along with information regarding the child protective services program and procedures, unless:

(i) the reporter does not disclose his name and address to the agency; or

(ii) the reporter waives the acknowledgement. The county agency shall give the reporter oral notice of the availability of the acknowledgement.

No other information may be released under this paragraph.

(13) Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded. A county agency shall also send written acknowledgement of receipt of the report of abuse to the reporter within ten days of receipt of the report by the agency.

Foster Parents

The advisory committee was concerned that the present law, rules and practices regarding disclosure to foster parents are overly restrictive. This is especially evident with respect to medical and education information, where barriers to disclosure hinder foster parents from assuring that the children under their care obtain necessary treatment and schooling. Proper selection and training of foster parents can minimize concerns that such disclosure will invade the child's privacy or that the information will be misused.

Accordingly, the advisory committee approved the recommendations by the Subcommittee on Accountability urging the General Assembly to adopt an amendment to the CPSL to broaden disclosure of confidential information to foster parents. In order to fully participate as part of the team in providing temporary care for vulnerable children, the foster parent should be made aware the medical and mental health conditions of the child, including immunizations and latent conditions, such as asthma, diabetes, HIV status and learning

disabilities. However, foster parents do not need to know the family history of the child's parents, such as the psychiatric evaluation of a parent. The following amendment to 23 Pa.C.S. § 6340 implements this recommendation.

Proposed Amendment to 23 Pa.C.S. Chapter 63 (Child Protective Services)

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(16) A foster parent, with regard to records concerning the social, medical, psychological, psychiatric or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent, as needed to make decisions regarding the care and well-being of the child. Reports and information regarding the biological parents of the child may not be disclosed.

As an additional measure to ensure that foster parents are informed regarding particular cases, county agencies are urged to review the terms of their provider contracts to ensure that disclosure of information to foster parents is not unnecessarily restricted.

Auditor General

The Auditor General is not, under present law, among the officials who are entitled to confidential child protection records.¹¹⁵ The advisory committee believes the Auditor General should be on the list, because access to those records is needed to verify a fiscal audit. For instance, if an employee is paid for handling a given number of cases, the cases must be identified and at least a limited review of the case file is needed to show that the services were actually performed, thus ensuring that the salary paid the employee is a legitimate expenditure of public funds.

The following amendment to 23 Pa.C.S section 6340 limits the disclosure to audits performed pursuant to sections 402 and 403 of the Fiscal Code, which are the provisions defining the Auditor General's powers and duties regarding audits of Commonwealth officials and private recipients of Commonwealth funds, respectively. The delineation of the Auditor General's auditing powers is plainly not within the scope of this study, and the proposed provision is drafted so as to make state and local agencies, in the context of confidential child welfare records, subject to those powers to the extent of the applicable law. In order to afford an agency the opportunity to respond to criticism from public reports of the Auditor General's audits, which could be considered damaging to DPW, county agencies and private providers, a limited exception is provided to allow these entities to use

¹¹⁵Ironically, federal auditors are entitled to such information under 23 Pa.C.S. § 6340(a)(8).

confidential information to the extent necessary to respond to the criticisms made therein.

Proposed Amendment to 23 Pa.C.S. Chapter 63 (Child Protective Services)

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(7.1) The Auditor General, pursuant to an audit under sections 402 or 403 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. If pursuant to such an audit, the Auditor General issues public findings critical of the department, a county agency or a provider of child-care services, the department, agency or provider may disclose to the public information otherwise confidential under this section, but only to the extent necessary to respond to specific findings of the audit.

JUDICIAL TRAINING AND ASSIGNMENTS

Judicial decisions regarding the disposition of the cases of abused and neglected children are crucial to ensuring the safety, health and well-being of the children. Only well-trained and experienced judges and auxiliary personnel can ensure the accuracy of these decisions. Therefore, the Subcommittee on Accountability reviewed the issue of judicial training and assignments, even though the task of assuring the competence of judicial personnel lies within the exclusive province of the judiciary and is not subject to direct legislative control. The advisory committee adopted the suggestions of the subcommittee and recommended that the General Assembly call upon the Supreme Court of Pennsylvania to do the following.

- (1) Take such steps as are feasible to encourage president judges to establish the principle that judges assigned to conduct proceedings under the Juvenile Act retain that assignment for a period of no less than three years.
- (2) Institute measures to ensure that child welfare cases are handled by judges, masters, child welfare agency attorneys, parents' attorneys and guardians ad litem who are adequate in number and well-trained. To this end, a comprehensive training program in the applicable law and procedure should be instituted. In developing such a program, the Court is urged to consult with the Pennsylvania Conference of State Trial Judges, the National Council of Juvenile and Family Court Judges and the Pennsylvania Juvenile Court Judges' Commission. The court should also consider adopting ideas from model programs operating in Michigan, Minnesota and other states.
- (3) Urge the adoption of practice standards for attorneys handling dependency cases, such as those adopted by the Court of Common Pleas of Philadelphia.¹¹⁶
- (4) Encourage judges to personally preside over as many of the child welfare cases assigned to them as possible. The increasing complexity of dependency proceedings, coupled with the critical importance of judicial determinations, requires that judges assume primary responsibility for hearing these matters. While competent masters are needed in many judicial districts to handle large

¹¹⁶Philadelphia Family Court Dependency Rules 1702-1705, adopted July 30, 2002.

caseloads efficiently, personal involvement by the judge will familiarize him or her with the particular facts of the individual cases, as well as the applicable law.

RECRUITMENT AND RETENTION OF CASEWORKERS

The issue of recruitment and retention of caseworkers in the children and youth services delivery system was a recurrent and prominent theme throughout the deliberations of the subcommittees and the advisory committee. The Subcommittee on Structural and Systems Issues reviewed the issue extensively and formulated the following list of problems involving recruitment and retention.

- (1) High staff turnover rates in both the public and private sectors adversely influence service delivery to children and families.
- (2) The work environment for caseworkers in the children and youth services delivery system needs improvement.
- (3) Salaries are inadequate and hamper recruitment and retention efforts.
- (4) Training and professional development efforts for caseworkers need improvement.
- (5) The importance of caseworkers in the children and youth services delivery system frequently is not acknowledged.
- (6) Low worker satisfaction levels for caseworkers in the children and youth services delivery system lead many experienced, competent caseworkers to find employment elsewhere.
- (7) The civil service system is restrictive and involves time-consuming processes that limit recruitment efforts.
- (8) An absence of parity between public and private service providers involving caseworkers negatively impacts recruitment and retention of private workers.
- (9) Employer costs are escalating, and service providers face increasingly difficult fiscal challenges in providing services to children and families.

The Subcommittee on Structural and Systems Issues decided that these problems could be best addressed through coordinated recruitment and retention strategies and cross-sector efforts to reward caseworkers both professionally and financially.

Staff Turnover

The retention of caseworkers in the children and youth services delivery system is a critical issue that affects the capacity of agencies to provide services to children and families. Annual turnover rates in excess of 20 percent are generally

considered a direct threat to an agency's overall effectiveness.¹¹⁷ Based on fiscal year 1997-98 data,¹¹⁸ the statewide turnover rate for employees classified as Caseworker I¹¹⁹ was 33 percent. Thirteen counties had turnover rates higher than the statewide average, and four exceeded 100% turnover.¹²⁰ Employees classified as Caseworker II had a turnover rate of 19 percent.¹²¹ Thirty-two counties had turnover rates higher than the statewide average, with two at 100% turnover.¹²²

Redistribution of the caseloads of departing staff overburdens remaining staff and diminishes their effectiveness with families. Services may be less intense due to staff time constraints and may tend only to focus on crisis intervention.¹²³ In addition, because of high turnover, supervisors must constantly train new staff. Furthermore, families are often shifted from one inexperienced caseworker to another and must learn to trust and work with new caseworkers.¹²⁴ Turnover, therefore, is costly financially and professionally and greatly impacts consistency of service. High turnover rates occur because of low salary levels and job stresses such as heavy caseloads and excessive paperwork. The volume and complexity of cases is often overwhelming, and caseworkers often face unrealistic expectations in assisting children and families.¹²⁵

Work Environment and Job Satisfaction

Concerns regarding work environment and job satisfaction levels for caseworkers in the children and youth services delivery system center around caseload size, quality supervision, the intake process, safety and regulatory requirements.

The Child Welfare League of America (CWLA) differentiates between caseload and workload, with workload encompassing the "tasks and activities expected within the child protection agency."¹²⁶ Among other things, workload includes the following:

- (1) Intake functions
- (2) Assessment

¹¹⁷Legislative Budget and Finance Committee, *supra* note 64, at 109.

¹¹⁸*Id.* at 107. Data did not include information from Philadelphia.

¹¹⁹A County Caseworker I performs beginning level social services work, under close supervision and a County Caseworker II has similar duties, but works more independently under more generalized supervision. *See* State Civil Service Commission at <http://www.spsc.state.pa.us/announcements/1997804.htm> (last visited November 18, 2002).

¹²⁰Legislative Budget and Finance Committee, *supra* note 64, at 108.

¹²¹*Id.* at 107. Data did not include information from Philadelphia.

¹²²*Id.* at 108.

¹²³*Id.* at 109.

¹²⁴*Id.*

¹²⁵*Id.*

¹²⁶Child Welfare League of America, *CWLA Standards of Excellence for Services for Abused or Neglected Children and Their Families* 137 (1999).

- (3) Investigation
- (4) Provision of services, including placement services
- (5) Court activities
- (6) Community development and outreach
- (7) Travel
- (8) Training
- (9) Staff meetings
- (10) Administrative functions, such as preparing required forms and reports

CWLA recommends that an agency analyze the workload of its staff and devise appropriate workload standards which would make it possible for staff to complete required tasks and activities. Until the agency devises its workload standards, CWLA recommends that it follow the caseload standards developed by CWLA.¹²⁷

Currently, the caseworker to family ratio in Pennsylvania is set at a maximum of 1 to 30.¹²⁸ The Legislative Budget and Finance Committee devised the following table showing CWLA's caseload standards.¹²⁹

Service	Caseload Size
Initial assessment and investigation	12 active cases per month
On-going services	17 active cases per social worker, and no more than one new case assigned for every six open cases
Family-centered casework services	15 families
Family foster care	12-15 children
Adoption	20-25 prospective adoptive families 12-15 families for children with special needs 10-12 children with special needs

According to CWLA, the factors influencing appropriate caseload size include the specific assigned functions and their time requirements, the skills and experience of the caseworker, the geographical area served and the availability of transportation, the availability of services and the intensity of the services required for children and families.¹³⁰

Caseloads throughout the Commonwealth generally exceed CWLA recommendations. Of the 52 counties reporting intake caseload size for fiscal

¹²⁷*Id.* at 136-138.

¹²⁸55 Pa. Code § 3130.2.

¹²⁹Legislative Budget and Finance Committee, *supra* note 64, at 110-111. CWLA acknowledges that there is no tested or universally accepted formula for determining a standardized caseload/workload model. Because of the wide range of agency policies, individual agencies are best equipped to determine caseloads/workloads through time studies that consider the specific responsibilities of caseworkers.

¹³⁰*Id.* at 111.

year 1997-98, 49 had average intake caseloads higher than the recommended 12:1, and 20 counties had intake caseloads more than double the recommendation.¹³¹ Of the 46 counties reporting caseloads for general protective services and child protective services, 36 exceeded the CWLA recommendation of 17 on-going cases per caseworker.¹³²

The subcommittee acknowledged that worker satisfaction levels are also challenged by the increased scrutiny of the public and the media and by legal and regulatory requirements. For example, caseworkers frequently cite excessive and duplicative paperwork requirements as negative components of their responsibilities, because such requirements drastically reduce the actual amount of time that a caseworker can spend with children and families regarding their service needs.

The subcommittee recommended the following to address the problem of improving the work environment and job satisfaction for caseworkers. The advisory committee approved these recommendations.

- (1) Provide flexibility in caseload assignments based on a worker's experience and the complexity of the case
- (2) Revise caseloads to conform more closely to CWLA recommendations
- (3) Provide quality supervision of caseworkers
- (4) Assign experienced individuals as intake workers
- (5) Coordinate documentation requirements to streamline the process and avoid duplicative and unnecessary paperwork
- (6) Develop a uniform process to gather data and information
- (7) Acknowledge the need for a multilingual and multicultural staff
- (8) Develop a comprehensive educational initiative to provide information to all stakeholders and the general public concerning the children and youth services delivery system; target efforts to enlist the support of collateral advocacy groups, which address such issues as education, mental health, drug and alcohol addiction, health care and the legal system

In addition, the Subcommittee on Services and Issues in Placement recommended that the safety of caseworkers be addressed by adding "caseworkers" to the list of individuals set forth in 18 Pa.C.S. § 2702(c) regarding aggravated assault, thereby specifying that a person is guilty of aggravated assault if the person (1) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a caseworker while in the performance of duty or (2)

¹³¹*Id.* at 110.

¹³²*Id.*

attempts by physical menace to put a caseworker in fear of imminent serious bodily injury.¹³³

Financial Incentives

The Subcommittee on Structural and Systems Issues noted that low entry-level salaries are decreasing the pool of top-quality applicants entering the children and youth services delivery system. In addition, earning potentials and benefit packages do not generally support the retention of caseworkers and staff in the system. This contributes to high rates of attrition resulting in shifting caseload assignments and disruption for children and families who must adjust to a new caseworker. Accordingly, the subcommittee formulated, and the advisory committee approved, the following recommendations.

- (1) Provide student loan forgiveness for private and public sector employees who serve children and families
- (2) Increase wage scales for caseworkers
- (3) Develop a human services minimum wage floor
- (4) Increase salaries for professional support staff

Training and Professional Development

The subcommittee noted that adequate training and educational opportunities are critical to the success of children and youth caseworkers. Such opportunities not only assist in staff retention efforts but are critical to the effective operation of the system as a whole. Better trained and educated workers are generally more adept at recognizing issues affecting their clients and responding more appropriately to their clients' needs. The subcommittee also noted that, unfortunately, caseworker training and education is often limited due to the costs of obtaining education and training and an overall lack of availability of such opportunities. The subcommittee pointed out that private sector agencies generally bear this burden more heavily than do their public sector counterparts.

To address these issues, the subcommittee formulated, and the advisory committee approved, the following recommendations regarding training for caseworkers and staff in the children and youth services delivery system.

¹³³After final deliberations of the advisory committee and before the publication of this report, House Bill 227 (Printer's No. 3199) was signed into law on November 6, 2002 as Act No. 132. The act adds paragraph (35) to 18 Pa.C.S. § 2702(c), which includes "an employee or agent of a county children and youth social service agency." Accordingly, the proposed legislation incorporating the recommendation of the advisory committee was changed to reflect the new law. That legislation is set forth in the chapter entitled "Proposed Legislation."

- (1) Provide additional educational opportunities for private and public sector employees who serve children and families
- (2) Achieve parity regarding higher education opportunities for workers in the private and public sectors
- (3) Evaluate how to improve competency-based training, to ensure that it produces desired outcomes, is focused and is not repetitive
- (4) Develop and implement cross-systems training so that caseworkers, particularly at the intake level, are better able to identify the service needs of children and families
- (5) Provide subsidized tuition costs for participants to receive master's level degrees in exchange for employment in the children and youth services delivery system for a period equal to the amount of time that the participant receives subsidized financial support

Recognition of the Importance of Caseworkers and Staff

Both the subcommittee and advisory committee noted that caseworkers are vital components of the children and youth services delivery system, yet too often these workers go unrecognized for the important work that they do. In fact, it was noted that unfortunately, the only attention caseworkers tend to receive is negative attention from the bad publicity generated by the minority of cases that go awry. This further frustrates staff recruitment and retention efforts by adding to already high employee stress levels and by lowering morale.

The subcommittee formulated, and the advisory committee approved, the following recommendations regarding recognition of the importance of caseworkers and staff in the children and youth services delivery system.

- (1) Coordinate efforts to promote the profession and the system
- (2) Promote alliances with universities to establish internships for potential caseworkers and provide professional exposure in the classroom to potential caseworkers
- (3) Encourage caseworker input into curricula for potential caseworkers
- (4) Provide general informational presentations to communities served and the general public regarding the importance of children and youth services
- (5) Promote the role and value of child welfare work and caseworkers
- (6) Acknowledge stress levels associated with being a caseworker
- (7) Establish a coordinated recruitment and retention campaign

Civil Service Reform

The Subcommittee on Structural and Systems Issues opined that the civil service system used in hiring caseworkers and staff is restrictive and time-

consuming, thereby limiting recruitment and hiring flexibility in the public sector. The subcommittee highlighted various problems with the current system, including the following.

- (1) Limited pool of applicants
- (2) Time-consuming job posting requirements and processes in general
- (3) The amount of paperwork involved
- (4) Scoring qualifications and preferences
- (5) Educational requirements that are not always relevant to the positions
- (6) Unclear status of federal requirements for the system
- (7) Job tests that are not always reflective of practice
- (8) Testing options that are not always available
- (9) Time-consuming and cumbersome classification process for new positions

Consequently, the subcommittee advocated a redesign of the system to increase the ability to focus recruitment efforts on appropriate, targeted potential employees, while at the same time supporting best practice standards and consistency in service planning and delivery. Skills descriptions for positions in the child welfare system should address case law, best practice standards and a cross-systems delivery philosophy.

The advisory committee supported the recommendation that a separate classification should be added to the civil service provisions because “caseworker” is too broad and not descriptive enough of the position in the children and youth services delivery system. The terms “protective service worker,” “child welfare worker” and “children and youth services worker” were offered as possibilities for this new classification.

Parity Between Private and Public Sector Providers

The Subcommittee on Structural and Systems Issues noted specific areas where there is little parity between private and public sector providers, including the following.

- (1) Structure of the system
- (2) Caseload expectations
- (3) Ability to initiate changes
- (4) Access to information
- (5) Staff compensation
- (6) Work hours
- (7) Complexity of case assignments
- (8) Weighted caseload assignments
- (9) Employee benefits

- (10) Training opportunities (because of funding, space limitations and other restrictions)

In addition, the subcommittee discussed the development of a structure aimed at supporting parity between the private and public sectors. Included in this structure were the following recommendations, which were approved by the advisory committee.

- (1) Increase opportunities for ongoing education and tuition reimbursement
- (2) Emphasize quality, supportive supervision
- (3) Provide flexibility in caseload assignments based on complexity, experience and timing
- (4) Improve employment benefit packages and job security measures
- (5) Create structured opportunities for upward mobility supported by best practices and regulations
- (6) Recognize the value of longevity, experience and consistency in service delivery and quality
- (7) Provide student loan forgiveness options
- (8) Provide more equitable distribution of existing resources between the public and private sectors
- (9) Coordinate efforts between the public and private sectors to advocate for and secure additional resources and flexibility

Employer Costs

The Subcommittee on Structural and Systems Issues recognized that rising private provider costs - including those for advertising, orientation, overtime and worker replacement caused by burnout - affect recruitment and retention of caseworkers. Consequently, it observed that these types of critical workforce costs should be acknowledged in planning and funding discussions, since they impact on program structures and service delivery. The advisory committee concurred.

THE IMPORTANCE OF PREVENTION EFFORTS

Throughout the course of its deliberations, the Subcommittee on Options Outside Placement discussed the following principal topics regarding the children and youth services delivery system.

- (1) How to develop a strategy for reducing the number of child placements
- (2) How to preserve the family unit and foster reunification where appropriate
- (3) How to improve permanency planning for children and families

In order to achieve these goals, the subcommittee focused a great deal of attention on prevention services, aimed at reducing the likelihood that children and families would become involved with the children and youth system. Recognizing that primary attention is currently paid to confronting existing placement and service needs, the subcommittee believed strongly that the Commonwealth should commit additional resources to develop prevention efforts as a proactive means of improving the children and youth system and better serving children and their families. In this regard, the subcommittee envisioned a policy shift away from merely reacting to the “crisis of the day.” Accordingly, the subcommittee stated that the Commonwealth should pursue the following policy initiatives.

- (1) Emphasize prevention services in policy planning and implementation
- (2) Provide meaningful oversight of prevention services
- (3) Provide fiscal incentives to provide and improve prevention measures
- (4) Consolidate prevention initiatives to prevent jurisdiction from being scattered among several departments
- (5) Improve and expand family supports for parents and children
- (6) Improve how county agencies and private providers develop and implement community programs and services
- (7) Improve in-home services to families
- (8) Coordinate efforts at the community level that promote family stability and child safety

In researching issues regarding options outside placement, the subcommittee gathered a great deal of information from both primary and secondary sources. Throughout the course of its meetings, the subcommittee

invited numerous guest speakers to discuss their own experiences in the children and youth services delivery system and offer solutions to improve the system. In addition to presentations by individual subcommittee members, guest speakers included adolescent consumers residing in Dauphin, Perry and York counties; parents residing in Lehigh, Northampton and Philadelphia Counties and caseworkers from Centre, Lehigh and Northampton Counties. The subcommittee also listened to the following representatives from public and private sector organizations that develop, coordinate and oversee programs and services for children and families.

The American Humane Association
Every Child, Inc.
The Family Intervention Crisis Services (FICS) program
The Family Service Association of Bucks County
Family Support Services, Inc.
The Governor's Community Partnership for Safe Children
The Juvenile Court Project in Allegheny County
The Philadelphia Department of Human Services, Office of Prevention
The Philadelphia Division of Social Services, Office of Children's Policy
T.R.E.T.MENT (Training, Research, Education and Therapy) Services and R.E.S.T. (Rational Emotive Spiritual Therapy) faith-based counseling

In addition, the subcommittee reviewed and discussed laws and regulations in Pennsylvania and on the federal level, initiatives from other states, current legislation and many reports and other informational material as a vehicle to facilitate discussion and highlight issues for consideration.

In assimilating the wealth of information gathered, the subcommittee analyzed current practices, discussed the effectiveness of programs and formulated policy recommendations. The subcommittee reviewed how federal, state and local dollars are allocated for children and family services and researched how to provide incentives for public and private agencies and community organizations to implement effective prevention and intervention services. Specifically, the subcommittee concentrated on critical problem areas that lead to the placement of children, including poverty, ineffectual parenting, lack of child supervision (particularly during after-school hours), drug and alcohol abuse, domestic violence and unmet housing needs. The subcommittee recognized that any new or expanded delivery of services should emphasize the following.

- (1) *Safety concerns*, to protect children from abuse and neglect, while at the same time maintaining children in their own homes when possible and appropriate
- (2) *Permanency concerns*, to provide children with stability in their living situations and preserve the continuity of family relationships for children

- (3) *Child and family well-being*, to enhance the capacity of family members to provide for the needs of their children and provide children with appropriate services to meet their educational, physical and mental health needs

Although the Subcommittee on Options Outside Placement focused a great deal of time and effort on issues surrounding prevention, the members posited that “family enhancement” or “family outreach” best captured the essence of their work. The subcommittee listed a variety of services that should be given heightened attention.¹³⁴

- (1) After-school programs
- (2) Caseworker services and child protective services
- (3) Child abuse prevention
- (4) Counseling
- (5) Day care
- (6) Domestic violence prevention
- (7) Drug and alcohol counseling
- (8) Educational services for parents and children (e.g., GED programs)
- (9) Employment counseling and training
- (10) Health care referrals
- (11) Homemaker services
- (12) Home visitation
- (13) Housing
- (14) Independent living
- (15) Intensive family preservation and reunification
- (16) Legal services
- (17) Life skills education (e.g., budget counseling)
- (18) Mental health/mental retardation services
- (19) Mentoring
- (20) Parent and child advocacy
- (21) Parenting education
- (22) Post-adoption services
- (23) Post-placement services
- (24) Poverty programs
- (25) Respite care
- (26) Social work intervention
- (27) Support groups
- (28) Teen pregnancy prevention
- (29) Transitional housing
- (30) Transportation assistance
- (31) Truancy prevention

¹³⁴The absence of detailed information regarding any of these services in this report should not be taken as an indication of the overall importance of the service as an option outside placement. Given time constraints, the subcommittee was unable to fully develop an analysis of every service.

(32) Visiting nurse services

Furthermore, the subcommittee recognized that many of these prevention services would also be beneficial both while the child is in placement and after family reunification has occurred.

Statistics and Background Information

The Subcommittee on Options Outside Placement compiled statistics and background information from various sources to illustrate fully the need to focus on prevention services.

Key Indicators of Child Well-Being

The following information indicates ten key indicators of child well-being and compares Pennsylvania and national statistics from 1990, 1998 and 1999.¹³⁵

Percent low birth weight babies

1990	U.S. rate	PA rate	PA rank		
	7.0	7.1	26		
1998	U.S. rate	U.S. births	PA rate	PA rank	PA births
	7.6	298,208	7.6	23	11,077
1999	U.S. rate	U.S. births	PA rate	PA rank	PA births
	7.6	301,183	7.9	30	11,489

Infant mortality rate (deaths per 1,000 live births)

1990	U.S. rate	PA rate	PA rank		
	9.2	9.6	32		
1998	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	7.2	28,371	7.1	21	1,043
1999	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	7.1	27,937	7.3	28	1,058

¹³⁵The Annie E. Casey Foundation, *Kids Count Data Book 2001*, at 119, 159 and 163 and *Kids Count Data Book 2002*, at 135, 175 and 179.

Child death rate (deaths per 100,000 children ages 1 to 14)

1990	U.S. rate	PA rate	PA rank		
	31	28	16		
1998	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	24	13,042	22	15	487
1999	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	24	12,844	22	18	476

*Rate of teen deaths by accident, homicide and suicide
(deaths per 100,000 teens ages 15 to 19)*

1990	U.S. rate	PA rate	PA rank		
	71	54	7		
1998	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	54	10,638	51	18	420
1999	U.S. rate	U.S. deaths	PA rate	PA rank	PA deaths
	53	10,396	52	20	431

Teen birth rate (births per 1,000 females ages 15 to 17)

1990	U.S. rate	PA rate	PA rank		
	37	28	16		
1998	U.S. rate	U.S. births	PA rate	PA rank	PA births
	30	173,231	22	14	5,300
1999	U.S. rate	U.S. births	PA rate	PA rank	PA births
	29	163,588	21	14	5,010

Percent of teens who are high school dropouts (ages 16 to 19)

1990	U.S. rate	PA rate	PA rank		
	10	7	6		
1998	U.S. rate	U.S. teens	PA rate	PA rank	PA teens
	9	1,487,000	7	9	48,000
1999	U.S. rate	U.S. teens	PA rate	PA rank	PA teens
	10	1,514,000	7	10	44,000

Percent of teens not attending school and not working (ages 16 to 19)

1990	U.S. rate	PA rate	PA rank		
	10	9	19		

1998	U.S. rate	U.S. teens	PA rate	PA rank	PA teens
	8	1,306,000	7	13	49,000

1999	U.S. rate	U.S. teens	PA rate	PA rank	PA teens
	8	1,291,000	7	12	45,000

Percent of children living in families where no parent has full-time, year-round employment

1990	U.S. rate	PA rate	PA rank		
	30	27	21		

1998	U.S. rate	U.S. children	PA rate	PA rank	PA children
	26	18,958,000	24	18	714,000

1999	U.S. rate	U.S. children	PA rate	PA rank	PA children
	25	18,005,000	21	15	629,000

Percent of children in poverty

1990	U.S. rate	PA rate	PA rank		
	20	16	15		

1998	U.S. rate	U.S. children	PA rate	PA rank	PA children
	20	14,113,100	17	23	482,600

1999	U.S. rate	U.S. children	PA rate	PA rank	PA children
	19	13,466,500	17	26	477,900

Percent of families with children headed by a single parent

1990	U.S. rate	PA rate	PA rank		
	24	21	9		

1998	U.S. rate	U.S. families	PA rate	PA rank	PA families
	27	9,371,000	25	10	355,000

1999	U.S. rate	U.S. families	PA rate	PA rank	PA families
	27	9,390,000	25	12	347,000

Regarding child well-being indicators, the Subcommittee on Options Outside Placement focused on the following Pennsylvania statistics, taken from Pennsylvania Partnerships for Children and consistent with other data sources.

- (1) Only 1 child in 2 eligible for Head Start is served
- (2) 1 child in 3 qualifies for a free or reduced-price lunch
- (3) 1 child in 6 lives in poverty
- (4) 1 child in 7 is born to a mother with less than a high school education
- (5) 1 child in 11 is born to a single, teenaged mother
- (6) 1 child in 12 is uninsured
- (7) 1 child in 23 is born with a low birth weight
- (8) 1 child in 26 drops out of high school every year

Contributors to Maltreatment

Child abuse and neglect transcends all racial, religious, ethnic, and socioeconomic bounds. However, the incidence of child abuse and neglect is linked to societal factors such as poverty, substance abuse, single parenting and parenting stresses.¹³⁶ The following list summarizes the contributors to maltreatment.¹³⁷

Characteristics of Parents

- (1) Adolescent parenthood
- (2) Depression
- (3) Difficulty dealing with aggressive impulses
- (4) History of child abuse as a child
- (5) Inability to control anger
- (6) Inadequate household and child management skills
- (7) Inconsistent use of discipline
- (8) Lack of attachment to the child
- (9) Lack of knowledge regarding child development
- (10) Lack of parenting skills
- (11) Lack of social skills
- (12) Low self-esteem
- (13) Mental illness
- (14) Observation of physical violence as a child
- (15) Poor self-understanding
- (16) Social isolation
- (17) Sole responsibility for all parenting skills
- (18) Substance abuse
- (19) Tendency to be rigid and domineering

¹³⁶Legislative Committee of Project Child, *Children in Peril* 1 (1999).

¹³⁷*Id.* at 1, 2 (quoting Deborah Daro, *Confronting Child Abuse: Research for Effective Program Design* 68).

Characteristics of Children

- (1) Behavioral problems and hyperactivity
- (2) Mismatched to parent's personalities
- (3) Physical and developmental disabilities
- (4) Physical illness
- (5) Premature birth
- (6) Similarity to an adult disliked by the parent
- (7) Unwanted during pregnancy

Characteristics of Household

- (1) Blended or reconstituted family
- (2) Chaotic family
- (3) Children born less than one year apart
- (4) Large number of children
- (5) Overcrowded or inadequate housing
- (6) Poverty or low income
- (7) Single parenthood

Stress Factors

- (1) Birth of a new baby
- (2) Death of a close friend or family member
- (3) Divorce or separation
- (4) Loss of a job
- (5) Loss of housing
- (6) Sudden financial burden
- (7) Sudden illness or chronic health problem

Societal and Cultural Factors

- (1) Community isolation, such as the lack of quality local community services and limited access to other neighborhood service systems
- (2) Culture of poverty
- (3) Extreme notions of individual rights and family privacy
- (4) Sexual stereotypes in child-rearing
- (5) Tolerance for physical punishment
- (6) Violence in the media

Effects of Maltreatment and the Costs to Society

As the following list illustrates, maltreatment takes many forms.¹³⁸

- (1) Emotional maltreatment: aggressive and deliberate acts against a child, such as verbal insults or scathing attacks

¹³⁸*Id.* at 7-11.

- (2) Emotional neglect: the failure to provide a child with consistent love, support and guidance
- (3) Physical abuse: the use of physical force against a child
- (4) Physical neglect: the failure to provide a child with the basic necessities of life, such as food, shelter, clothing and medical care
- (5) Sexual abuse

Because these types of maltreatment may lead to placements within the children and youth system, the Subcommittee on Options Outside Placement believed that prevention efforts should be strengthened to reduce the child abuse and neglect and curtail the underlying risk factors. A troubling statistic is that without intervention, approximately 30 percent of abused children repeat the damaging parenting styles that they learned from their own parents.¹³⁹

Child abuse and neglect carry very high costs to society, in terms of such things as juvenile delinquency, substance abuse, homelessness, runaway and missing children, mental health problems, teen pregnancies, suicide and increased medical needs. In the United States, over three million cases of child abuse and neglect were reported in 1997; nearly one million of these cases were substantiated. More than three children died each day as a result of maltreatment. According to the Children’s Defense Fund, a child is reported abused or neglected in this country every 13 seconds.¹⁴⁰

The National Committee to Prevent Child Abuse estimates that for every \$3 spent on prevention, at least \$6 is saved -- money that would have been spent on child welfare services, special education services, medical care, foster care, counseling and the housing of juvenile offenders.¹⁴¹

Child Welfare Data

A 1998 annual summary of state child welfare data, as required under the Adoption and Safe Families Act (ASFA), reveals the following information.¹⁴²

Information Category	National	Pennsylvania
Children in foster care on 9/30/98	485,870	23,070
Children adopted during fiscal year 1998	23,523	1,516

¹³⁹*Id.* at 20.

¹⁴⁰*Id.* at 4, 6.

¹⁴¹*Id.* at 4.

¹⁴²This chart, provided by the Juvenile Court Project, includes statistics from the Annie E. Casey Foundation and the U.S. Department of Health and Human Services with national data based on information from 30 states. Similar child welfare data may be accessed through the following website: <http://www.acf.dhhs.gov/programs>.

Information Category	National	Pennsylvania
Median length of foster care stay if -- In care on 10/1/97 -- In care on 9/30/98	24 months 22.2 months	23.6 months 19.6 months
Total number of children served -- Entering care in fiscal year 1998 -- Exiting care in fiscal year 1998 -- In care on 10/1/97 -- In care on 9/30/98	153,168 130,696 284,160 306,940	13,019 10,933 20,983 23,070
Exits from foster care in fiscal year 1998 -- Adoptions -- Guardianship -- Reunified with families -- Other/Missing	14% 2% 66% 17%	12% 1% 71% 16%
Time regarding reunification -- Less than 12 months -- 12 to 24 months -- 24 to 36 months -- 36 to 48 months -- More than 48 months -- Missing	65% 16% 7% 4% 6% 2%	66% 17% 7% 4% 6% 0%
Time regarding adoption -- Less than 12 months -- 12 to 24 months -- 24 to 36 months -- 36 to 48 months -- More than 48 months -- Missing	5% 11% 16% 19% 49% 0%	2% 10% 18% 21% 48% 0%

Child Placements

The total number of placements in Pennsylvania lends legitimacy to the concern that not enough is being done in the area of prevention and in developing options outside placement. The following chart summarizes the number of child placements.¹⁴³

Year	Total Placements	Placements as A Percent of Total Services	Foster Home Placements	Percent*	Institutional Placements	Percent**
1999	22,821	27.4	15,588	68.3	4,238	18.6

¹⁴³Pennsylvania State Data Center, *Pennsylvania Abstract: A Statistical Fact Book 2000*, at 160.

Year	Total Placements	Placements as A Percent of Total Services	Foster Home Placements	Percent*	Institutional Placements	Percent**
1998	22,538	30.9	15,637	69.4	4,082	18.1
1997	22,100	28.0	15,654	70.8	3,760	17.0
1996	21,377	27.7	15,519	72.6	3,511	16.4
1995	20,299	25.6	14,747	72.6	3,252	16.0
1994	19,416	25.1	14,045	72.3	3,154	16.2
1993	18,759	23.8	13,334	71.1	3,082	16.4
1992	18,542	23.0	13,412	72.3	3,129	16.9
1991	17,712	21.6	12,902	72.8	3,032	17.1
1990	16,737	22.4	11,889	71.0	3,154	18.8

* Foster home placements as a percentage of total placements.

** Institutional placements as a percentage of total placements.

In reviewing these numbers, the Subcommittee on Options Outside Placement was particularly concerned about the increase in the number of institutional placements, typically the most expensive placement available.

According to an analysis by the Legislative Budget and Finance Committee (LBFC), in fiscal year 1997-98, there were approximately 9.0 placements per 1,000 children under 18 years of age.¹⁴⁴ Placement expenditures exceeded \$412 million.¹⁴⁵ Dividing placement expenditures by the total number of placements (25,786, according to LBFC numbers) yields approximately \$16,000 spent per placement. In-home expenditures, on the other hand, totaled approximately \$253 million and served over 592,000 children.¹⁴⁶ Therefore, the cost per child regarding in-home expenditures was only \$427, excluding administrative costs. If administrative costs for all Act 148¹⁴⁷ services were included, they would add approximately \$70 million to the \$253 million figure, thereby totaling approximately \$323 million.¹⁴⁸ In this regard, the cost per child

¹⁴⁴Legislative Budget and Finance Committee, *supra* note 64, at 164-165.

¹⁴⁵*Id.*

¹⁴⁶*Id.* at 155.

¹⁴⁷Act 148 of 1976 established the procedures used to allocate state monies to counties for dependency and delinquency programs. Act 30 of 1991 amended Act 148 and established the annual needs-based budgeting process that counties must use to obtain Act 148 funds. Act 30 requires counties to submit a needs-based budget plan to the Department of Public Welfare, requires the department to meet with the counties to discuss their needs-based budgets and authorizes the department to determine (certify) the needs of the counties. Under Act 148, as amended by Act 30, the Commonwealth reimburses counties for 60 percent of qualified expenditures for children and youth administrative costs and, depending on the service provided, 75 percent to 90 percent for child welfare services. County adoption services are 100 percent reimbursable.

¹⁴⁸Legislative Budget and Finance Committee, *supra* note 64, at 155.

regarding in-home expenditures would be \$526. The LBFC has defined in-home expenditures to include the following.¹⁴⁹

- (1) Adoption services
- (2) Adoption assistance
- (3) Counseling
- (4) Day care
- (5) Day treatment
- (6) Homemaker and caretaker services
- (7) Intake and referral
- (8) Life skills education and training
- (9) Protective services regarding child abuse
- (10) Protective services generally
- (11) Service planning

In terms of funding for services to dependent children in Pennsylvania, LBFC recounted that the federal government provides 43% through Title IV-E of the Social Security Act (Title IV-E) and Temporary Assistance for Needy Families (TANF), the state provides 39% through Act 148, and the county provides the remaining 18%.

Annual Expenditures on Other Programs

The Subcommittee on Options Outside Placement also reviewed a summary of average annual expenditures in Pennsylvania, compiled by Pennsylvania Partnerships for Children.¹⁵⁰

- (1) \$6,156 per special education student
- (2) \$82,000 to house a juvenile in a youth development center
- (3) \$28,112 to incarcerate a state prison inmate
- (4) \$1,817 per person through TANF cash assistance
- (5) \$864 per person through the Food Stamp program

The Importance of Community

The Subcommittee on Options Outside Placement acknowledged that rebuilding a sense of community and reinvigorating informal systems of support for families are critical. The members agreed that “[t]he roles of community and neighborhood become pivotal as we understand child abuse and neglect as being influenced by many factors other than family pathology. Therefore, an ecological model of child rearing defines the community as both the target and the

¹⁴⁹*Id.* at 25.

¹⁵⁰Pennsylvania Partnerships for Children, *High-Quality Preschool for Pa’s Children: The Missing Link to School Readiness 2* (April 2001).

instrument of change in creating a conducive environment for families and children.”¹⁵¹

As mentioned previously, environmental stresses affect a parent’s ability to properly care for a child. Principal stresses include poverty, inadequate housing, employment status, inadequate social services, absence of recreational activities, lack of spiritual support, domestic violence, lack of educational opportunities, unavailability of child care and limited health care options. In addition, “[t]he child welfare system has been overburdened with the responsibility to resolve all of the problems affecting families. Yet, the child welfare system cannot be the only solution for child protection.”¹⁵² Community services must also assist families. As such, “[c]ommunities should be seen as allies in intervening in families’ lives; they have strengths to make changes which are supportive of the families and children who live there.”¹⁵³ Because they are more knowledgeable about individual and local needs, communities can better develop and implement prevention services, “thought to be the best, most comprehensive long-term approach to help families and children.”¹⁵⁴

Classes of Prevention Activities

The Subcommittee on Options Outside Placement analyzed the three basic classes of prevention activities, which are summarized as follows.¹⁵⁵

Primary, directed at the general population, with the goal of stopping child abuse before it begins, and which may include

- (1) Public service announcements encouraging parents to use non-violent forms of discipline
- (2) Public awareness campaigns regarding how to report suspected child abuse and neglect
- (3) Parent education programs
- (4) Life skills training for children and adults, including problem solving and anger management
- (5) Public education about child abuse and the necessity for prevention
- (6) Teaching interpersonal skills

Secondary, targeting at-risk families to alleviate conditions associated with the problem, such as substance abuse, young maternal age, developmental disabilities and poverty, and which may include

¹⁵¹Seymour J. Rosenthal and June M. Cairns, “Child Abuse Prevention: The Community as Co-worker,” 1 *Journal of Community Practice* 48 (1994).

¹⁵²*Id.* at 47.

¹⁵³*Id.* at 50.

¹⁵⁴*Id.* at 49.

¹⁵⁵*Id.* at 20.

- (1) Parent education programs located in high schools for teen mothers
- (2) Substance abuse treatment programs for families with young children
- (3) Respite care for families who have children with special needs
- (4) Information and referral services for families living in low-income neighborhoods
- (5) Home visitation programs for new parents
- (6) Parent support groups
- (7) Family and neighborhood centers, bringing medical and social services under one roof

Tertiary, directing services to families where child abuse or neglect has occurred in an attempt to reduce the negative consequences of the abuse or neglect and to prevent its recurrence, and which may include

- (1) Intensive family preservation services with trained professionals
- (2) Mentoring services which provide support to families in crisis
- (3) Medical and mental health services for children and families affected by abuse and neglect

Each of these prevention activities has an important function in program development and implementation, and each to some extent is covered in the analysis of specific prevention programs.

Case Study: One Parent's Experiences with Children and Youth Services

The Subcommittee on Options Outside Placement heard from a parent from Philadelphia, a single mother with four children who had been involved with the Department of Human Services (DHS) for three years. She related her past housing difficulties and explained that she had moved 13 times in the last five years. Her specific needs included adequate housing, mental health counseling, education for herself and her children, income maintenance to avoid poverty, health care services, transportation, legal services and parenting resources. The subcommittee believed that her experiences are typical of the experiences of countless other individuals involved with the children and youth services delivery system.

Children and Youth Services directed her to secure adequate housing, apply for income benefits, receive a psychological evaluation, receive appropriate medical care and ensure that her children attend school. However, she stated her

impression that DHS never really helped her regarding the issues of housing, medical care and finances. Instead, she said that DHS consistently portrayed her as a bad parent. When she felt depressed and suicidal, she said that she reported her feelings to DHS as a way of seeking help, but she claimed that DHS used the information against her and did not in any way assist her in seeking treatment.

In the end, she said that she was helped by legal services, which assisted her with coordinating housing and financial services and with reviewing legal documents and family service plans. She also noted that she received General Equivalency Diploma (GED) classes and drew upon a strong support network of family and friends. She then summarized her belief that the following would have helped her situation considerably from the onset.

- (1) A “one-stop shop” for services
- (2) Avoidance of labels such as “bad parent”
- (3) Community and governmental supports
- (4) Coordination of services
- (5) Explanation of the bureaucratic process
- (6) Parenting skills classes and parenting resources

The subcommittee tailored its recommendations and analyses with this particular input in mind. The suggestions by the parent impact not only on prevention efforts but on the overall philosophy and practice of the children and youth services delivery system.

Characteristics of Highly Effective Programs

In researching how to structure and implement programs that address the issues surrounding options outside placement, the subcommittee turned to Lisbeth Schorr’s insightful book *Common Purpose*, which describes the “Seven Attributes of Highly Effective Programs.”¹⁵⁶ The subcommittee summarized the attributes and used them as a benchmark for discussion.

A successful program must be comprehensive, flexible, responsive and persevering. In addition to providing services, a successful program must offer care, compassion and patience to change lives. For example, staff must be able to exercise enough discretion to provide adequate and timely assistance to families. Staff should also facilitate interaction between families and their community and other support networks, thereby providing a reliable resource for families during times of crisis. In addition, staff should “respond to the needs of families at places and times that make sense to the family - often at home, at school, or in neighborhood centers and at odd hours - rather than offering help only in

¹⁵⁶Lisbeth B. Schorr, *Common Purpose: Strengthening Families and Neighborhoods to Rebuild America* 3-21 (1997).

places that may be convenient for agency staff but are far removed geographically and psychologically from those who use them.” Therefore, through its responsiveness and persistence, a successful program is more like a family than a bureaucracy.¹⁵⁷ In addition, the subcommittee recognized that a successful program must have features that promote sustainability.

A successful program must view children in the context of their families and recognize that strong families are the key to healthy children. Although a program may focus on family strengths, it must “recognize that frequently, intensive individual treatment may be necessary to deal with serious problems, including substance abuse and mental illness.” Furthermore, effective programs must recognize that meeting the emotional and intellectual needs of the child generally depends on the coping abilities, mental health and resources of the child’s parents. Collaboration with the community is key. Communities may forge new partnerships among schools, service providers, the child welfare system and faith-based institutions. Although successful programs are not a substitute for strong families, they do have the ability to support families’ capacities to raise children.¹⁵⁸

A successful program must respond to the needs of families through community and neighborhood efforts. This assures that localities have a genuine sense of ownership and a stake in the programs created. In other words, “[b]eing community-based means more than being located in the neighborhood. Increasingly, successful programs are not just *in* but *of* the community.”¹⁵⁹

A successful program must emphasize prevention, focus on long-term goals, state a clear mission and continue to evolve over time. Early intervention is key, particularly when it attacks preventable risk factors. In addition, a successful program is outcome-oriented instead of rule-bound, combining highly flexible modes of operation with clearly articulated and understood goals. It must also evolve in response both to the changing needs of individuals, families and the community and to feedback from staff and participants.¹⁶⁰

*A successful program must be well managed by competent and committed individuals with clearly identifiable skills.*¹⁶¹

¹⁵⁷*Id.* at 5, 6.

¹⁵⁸*Id.* at 6, 7.

¹⁵⁹*Id.* at 7, 8.

¹⁶⁰*Id.* at 8, 9.

¹⁶¹*Id.* at 9.

*A successful program must have well trained and well supported staff who are able to provide high-quality and responsive services. To this end, training, monitoring and supervision are key.*¹⁶²

*A successful program fosters strong relationships built on mutual trust and respect. For example, the National Academy of Science's Panel on High Risk Youth found that the opportunity to develop sustained, trusting relationships with caring adults was a central element of effective programs concerning adolescents growing up in high-risk environments.*¹⁶³

The subcommittee posited that a successful prevention program should have as many of these attributes as possible and that any proposed program should be carefully designed and implemented to account for these attributes.

Analysis of Specific Prevention Programs

During its deliberations, the Subcommittee on Options Outside Placement concentrated on several successful prevention programs to demonstrate how services can be effectively delivered to families. The subcommittee believed strongly that these programs should not be mandated but cited merely as examples of how programs can be effectively planned and implemented. Individual counties and localities should be able to determine which of the programs, if any, could best serve them. They should also have the opportunity to develop their own prevention programs, tailored to the needs of the communities to be served. The subcommittee wanted to emphasize the importance of flexibility in providing services to children and families. The following programs encompass primary, secondary and tertiary prevention activities.

The subcommittee did not compare prevention programs and choose the best model. Rather, it gathered information on model programs subcommittee members knew had reputations for success. Therefore, the omission of any comparable program or other prevention program is not intended to reflect the subcommittee's opinion of the program. In addition, the advisory committee did not endorse any specific prevention programs.

Olds Model of Prenatal and Infancy Home Visitation by Nurses

The Olds model involving home visitation by nurses is an evidence-based program offering positive outcomes for the families receiving services.¹⁶⁴ The target population for the Olds model are women who are bearing their first child

¹⁶²*Id.* at 10.

¹⁶³*Id.* at 10, 11.

¹⁶⁴See David Olds et al., *Blueprints for Violence Prevention, Book Seven: Prenatal and Infancy Home Visitation by Nurses* (1998).

and who are teenagers, unmarried, unemployed, undereducated (possessing less than 12 years of education) or in a low socioeconomic class. The theoretical underpinnings of the model include promoting attachment between a child and a caretaker for emotional and social well-being and emphasizing ways in which the environment can influence an individual's social interaction and development. The visitation schedule by the nurses involves weekly visits during the first month following the woman's enrollment in the program, bimonthly visits for the remainder of her pregnancy, weekly visits during the first six weeks following delivery, bimonthly visits through the 21st month of childhood and monthly visits until the child reaches two years of age. Each visit lasts between 60 and 90 minutes. Home visitation nurses assisting in the Olds model must complete specialized training and work with interdisciplinary teams to receive ongoing support and guidance. Each nurse handles a caseload of approximately 25 families.

As a tool of prevention, the Olds model seeks to address negative behaviors regarding prenatal care, infant health and development, and maternal life course. Specifically, the goals of the program are as follows.

Improve the outcomes of pregnancy by

- (1) Reducing the rate of pre-term delivery
- (2) Reducing the possibility of low birth weight babies
- (3) Reducing obstetrical complications

Improve prenatal health-related behaviors by

- (1) Decreasing smoking during pregnancy
- (2) Decreasing the use of alcohol or illegal drugs during pregnancy
- (3) Improving diets during pregnancy
- (4) Identifying emerging obstetrical problems and learning how to treat them before they become more serious

Improve infant health and development by

- (1) Reducing the child's injuries
- (2) Reducing the incidents of abuse and neglect
- (3) Improving the infant's developmental accomplishments
- (4) Reducing emerging behavioral problems
- (5) Helping parents provide more informed and responsive care for their children
- (6) Helping parents create safer home environments
- (7) Helping parents provide more educational enrichment for their children

Improve the mother's own personal life course development by

- (1) Reducing the rates of unintended subsequent pregnancies
- (2) Increasing the interval between the birth of the first and second child

- (3) Increasing educational achievements
- (4) Increasing participation in the workforce
- (5) Reducing the need for welfare programs
- (6) Helping develop a vision for the future
- (7) Helping clarify expectations about family life
- (8) Helping make appropriate child care arrangements in order that the mothers may complete their education and participate in the workforce

Under the Olds model, the estimated cost per family per year is \$4,000 to \$7,000, whereas the costs of intervention and treatment services per year after family members have abused their child could exceed \$50,000.¹⁶⁵ The Rand Corporation, which studied the economic benefits of the Olds model program in Elmira, New York, estimated a \$4 savings for every \$1 invested in the program. It found that the savings resulted from the decreased need for welfare payments and services, fewer emergency room visits, less involvement with the criminal justice system and a broader tax base since, for example, the mothers are either becoming part of the workforce or improving their employment status. It further found that cost savings are achieved before the child reaches four years of age. In addition, actual savings may even be higher than the Rand Corporation originally estimated because the study did not attempt to measure the monetary outcomes associated with such things as decreased child abuse and neglect as a result of a family's participation with the home visitation program.

Published studies have revealed positive outcomes regarding the Olds model, including the following with respect to the mothers participating in the program compared to mothers not participating in the program.¹⁶⁶

- (1) Increased interval of more than two years between the birth of the first and second child
- (2) 30 fewer months of welfare assistance after the birth of the first child
- (3) 43% reduction in subsequent pregnancy
- (4) 83% increase in workforce participation by the child's fourth birthday
- (5) 44% reduction in behavioral impairments due to substance abuse by the child's fifteenth birthday
- (6) 40% fewer injuries and dangerous ingestions regarding the child
- (7) 45% fewer behavioral and parental coping problems noted in the physician record
- (8) 25% reduction in cigarette smoking during pregnancy
- (9) 79% fewer verified reports of child abuse and neglect through the first child's fifteenth birthday
- (10) 69% fewer arrests among the mothers

¹⁶⁵Estimate from Healthy Families Illinois (2000).

¹⁶⁶See 278 *Journal of the American Medical Association* 637-43 (1997), 93 *Pediatrics* 89-98 (1994) and 9 *Future Child* 44-65 (1999).

In addition, the benefits of the Olds model have extended to adolescents born to women who received the home visitations by nurses during pregnancy and post-natally, compared to adolescents born to women who did not receive such home visitations.¹⁶⁷

- (1) 56% fewer arrests
- (2) 69% fewer convictions and probation violations
- (3) 58% fewer sexual partners
- (4) 28% fewer cigarettes smoked
- (5) 56% fewer days consuming alcohol
- (6) Fewer reported behavioral problems related to substance use

In Pennsylvania, former Governor Ridge's early childhood initiative included \$7.5 million to the Pennsylvania Commission on Crime and Delinquency to expand the Olds program as part of a \$20 million expansion of that commission's existing pilot program. Currently, there are approximately 21,000 Medicaid births annually in Pennsylvania, 40% of which (approximately 8,400) concern first-time mothers. Assuming that 60% of these 8,400 first-time mothers (approximately 5,040) could be served by the Olds model program and that the cost of a three-year program for each mother approaches \$8,000, the total financial commitment facing Pennsylvania would exceed \$40 million for each three-year cycle. Consequently, more financial resources are necessary.

The Olds model of home nurse visitation for high risk, first-time mothers is shown to be beneficial, both from an economic and human standpoint. As a preventive measure toward reducing the number of child placements in the children and youth services delivery system, the Subcommittee on Options Outside Placement believed strongly that it should be given heightened attention.

Family School Model

The Family School model of Philadelphia offers day treatment and prevention care. An innovative, site-delivered service program for parents who either are at high risk of having their children removed from their home or have recently been reunified with their children, the program model is based on the theory that parents do not intend to hurt their children, but instead do not know how to parent them. Parents, for example, may have been abused or neglected themselves, may have little knowledge of age-appropriate child development, may not know alternatives to physical punishment for behavioral management and may be socially isolated. The Family School program model directly addresses these root causes with a direct social service support and educational component that builds on parent and family strengths. Initially funded by the William Penn Foundation, the model is administered through Family Support

¹⁶⁷*Id.* The statistics set forth concern 15-year-old adolescents born to women who had participated in the Olds program.

Services, Inc., a private, non-profit social service agency established in 1976 and operating in Philadelphia and Delaware County.

Family School is open to families who live in Philadelphia, have at least one child who is five years of age or younger and are involved with Philadelphia's Department of Human Services (DHS). Although the site is located in West Philadelphia, families are referred from throughout the city. Capacity for the Family School is approximately 65-70 families. Families attend either Monday and Wednesday or Tuesday and Thursday, from 9 AM to 2 PM. Involvement lasts from six to nine months, depending on the needs of the family. Approximately half the families receive Supplemental Security Income (SSI) for various disabilities. Services through Family School include the following.

- (1) Child screening for developmental delays, coupled with referrals and early intervention services if needed
- (2) Coached parent/child interaction
- (3) Current immunizations for all children entering Family School
- (4) Flexible support to accommodate work and training schedules
- (5) Group sessions, dealing with such difficult issues as family violence, substance abuse and loss
- (6) Health and nutrition education
- (7) Nutritious family-style breakfasts, lunches and snacks
- (8) Parenting education classes, counseling and support
- (9) Regular contact with other service providers
- (10) Round-trip taxi transportation, thereby eliminating transportation barriers
- (11) Small early childhood education classrooms
- (12) Social work home visits, initially on a weekly basis, then monthly while the family attends Family School, with social workers on call 24 hours a day, seven days a week for emergencies
- (13) Special events and field trips, such as to the Please Touch Museum
- (14) Supervised visitation

The multidisciplinary staff at Family School includes social workers with a Master of Social Work (MSW) degree, a parent educator/licensed social worker, early childhood education teachers, consultant pediatric nurses, speech and occupational therapists, a site manager, a cook and maintenance personnel. Progress records for children and families are kept daily, and multidisciplinary case management meetings occur regularly. DHS receives quarterly reports. The Family School curriculum is well developed and published, yet it is constantly revised to reflect cultural sensitivity and meet the needs of the families referred. Staff members have become a "social trauma team," responsive to families impacted by violence, addiction and mental health/mental retardation issues.

Statistics for calendar year 1998 reveal that 63 families with 123 children attended Family School, while 53 families completed the program or continued

the program into 1999. Therefore, Family School saw an almost 85% rate of sustained participation of families referred.¹⁶⁸ Of the 123 children served, only four children from two families - roughly 3% - were placed in foster care. With respect to reunification, 27 children enrolled at Family School had a goal of reunification with their family. The following statistics demonstrate the success of Family School relating to reunification.

- (1) 33% of the children in foster care at the time of enrollment into Family School were reunified with their family, and none of these children were placed back in foster care while in the service of Family Support Services, Inc.
- (2) Nine children were reunified with their family just prior to enrollment into Family School, and none of these children were placed back in foster care.

In addition, a survey of the children in Family School revealed that 95% were up-to-date in terms of immunizations. Of the five-year-olds who completed the Family School program, all enrolled in kindergarten. Over 80% of children who completed the Family School program did not return to the DHS system.

The Family School program model has been shown to reduce stress levels of families enrolled in the program, reduce the incidences of abuse and neglect and improve parenting techniques, while at the same time engendering a cost effective alternative to foster care, special education and medical care.¹⁶⁹

The costs associated with Family School are between \$3,000 and \$4,000 per family for prevention services, compared to approximately \$12,000 for foster care services. Unfortunately, the funding from DHS is inadequate to fully cover the costs of Family School. Reimbursement by DHS is only \$34.09 per day per child.

Another component of the Family School model concerns the Teen Mothers Program, which operates on Fridays. Between 10 and 15 teenage mothers and their infants and toddlers attend Family School for a 12-week

¹⁶⁸Of the ten families who left the program, reasons cited included a change in the family's service plan, Welfare-to-Work requirements and relocation out of the city.

¹⁶⁹For formal research studies and other specific information regarding Family School, see also:

Virginia C. Peckham, "Family School: Twenty Years as an Innovative Model, Innovative Demonstration Project" (Chapter 18), *Young Children and Foster Care: A Guide for Professionals* (Judith A. Silver et al., eds. 1999).

Deborah Daro et al., *Preventing Child Abuse: An Evaluation of Services to High Risk Families* (1993).

K. Armstrong, "A Treatment and Education Program for Parents and Children who are At-risk of Abuse and Neglect," 5 *Child Abuse and Neglect* 167-175.

K. Armstrong, "Economic Analysis of a Child Abuse and Neglect Treatment Program," 62 *Child Welfare* 3-12.

program, learning parenting skills and engaging in structured activities with their children. The program is a collaborative effort among Family Support Services, Inc., DHS and the Women's Association for Women's Alternatives.

Family Intervention Crisis Services Program

The Family Intervention Crisis Services (FICS) program operates in Centre and Blair Counties and provides an innovative approach to prevention services. Administered by Wardell and Associates, a for-profit company, the FICS program focuses on the empowerment of the family by bringing services to the home of the family. The goals of the FICS program center around child safety, family preservation, family reunification and independent living. Services are client-driven and flexible; no fixed program or set of procedures is implemented. Working with the county children and youth agency, FICS caseworkers target families either identified as being at risk for placement or in the reunification process. However, the FICS program does not have a placement component. Short-term placements may be necessary to facilitate reunification, in which case the county children and youth agency places the children and monitors the placement. Even during the placement, a FICS caseworker can still work with the family to prepare for reunification.

Each FICS caseworker manages only four cases, thereby enabling intensive and personal interaction and counseling with families. The caseworker may also, for example, help families to clean their home, assist with transportation needs and provide respite care for parents. The caseworker may spend five days each week with a family if needed, up to a maximum of 200 hours per month per family. In addition, the caseworker participates in family service planning, testifies in court and provides documentation of a family's needs and progress. As expected, there are waiting lists for families to enroll in the FICS program.

The FICS program is recognized for its team-building environment, low staff turnover and good working relationship with the county, schools and guidance counselors. Monthly meetings and yearly safety training contribute to the smooth administration of the program. Caseworkers are hired with bachelor's degrees or master's degrees in any social service field. In many respects, FICS caseworkers are viewed as an extension of the family. Caseworkers are salaried employees and do not receive overtime pay.

Wardell and Associates bills the county based on an hourly rate of between \$36 and \$40, depending on whether a family requires family preservation or family reunification services. Billing includes the costs of travel, supervision of staff and paperwork as required by the state and federal government. FICS caseworkers also have the discretion to spend \$50 per month per family on activities and special events for the family (for example, aerobics classes or

lunches for the children). It is estimated that for every \$1 spent on the FICS program in Centre County, a savings of \$2 to \$3 is realized in the long term.

The Healthy Families America Initiative

Healthy Families America (HFA) is a national initiative for all new parents as a way to help their children have a healthy start in life. HFA offers home visiting services to families in over 300 communities and has a 90% acceptance rate. Participation in HFA is strictly voluntary. The goals of the HFA initiative are as follows.

- (1) Assist the parent in setting and meeting realistic goals
- (2) Enhance family functioning by building trusting relationships and improving a family's support system
- (3) Promote healthy childhood growth and development
- (4) Promote positive parent/child interaction
- (5) Provide parent education, thereby teaching parents problem-solving and self-sufficiency techniques and improving parental skills
- (6) Systematically assess a family's strengths and needs and make referrals as necessary

HFA initiates services either prenatally or at birth and uses a standardized assessment tool to identify families who are most in need of services. Services consist of positive, persistent outreach efforts with well-defined criteria; they may be offered intensively (at least once per week, for example) and are adjusted in terms of increasing or decreasing intensity over the long term (a three to five-year course, for example). Services are intended to be culturally competent, in order that the staff may understand, acknowledge and respect cultural differences among the participants. Materials used reflect the cultural, linguistic, geographic, racial and ethnic diversity of the population served. In addition, services focus on supporting the parents as well as supporting parent/child interaction and child development.

Under the HFA initiative, families are linked to a medical provider, thereby assuring optimal health and development. Service providers in general are selected based not only on competence but on their compassion, nonjudgmental nature and ability to establish trusting relationships. Each service provider must receive basic training in such areas as cultural competency, substance abuse, reporting child abuse, domestic violence, drug-exposed infants and services in the community. Ideally, a service provider should understand the essential components of family assessment and home visitation. Effective supervision of a service provider is fundamental, in order that the service provider can develop realistic and effective plans to empower families to meet their objectives, understand why a family may not be making progress, understand how to work with a family more effectively, express concerns and frustrations, receive

feedback on how it is making a difference in the lives of family members and avoid stress-related burnout.

Family Support Services, Inc., which coordinates the Family School program, also administers an HFA program through a collaborative effort with the Family Service Association of Bucks County, the Crime Prevention Association of Philadelphia, Youth Service, Inc. and the Philadelphia Society for Services to Children. The William Penn Foundation funds this program through a three-year grant.¹⁷⁰ The HFA program targets first-time parents and their infants, from birth until the child is five years of age. The goal is to reach at-risk parents early in their parenting role by providing them information about parenting, child development and positive child rearing skills. In-home counseling services to prevent child abuse are offered, often on a weekly basis. Because statistics show that the most damaging physical abuse occurs among infants and very young children, HFA is beneficial in helping parents during these critical years of the child's life.¹⁷¹ HFA staff visits families in their home until the child is three years of age, at which time the child is typically ready for quality preschool or childcare programs.

Family Service Association of Bucks County - a private, non-profit, non-sectarian human service agency founded in 1953 that provides services to individuals and families - reports that it serves approximately 40 families through its HFA program. One quarter of the parents served are under 18 years of age, and few are over 30 years of age. Approximately 65% are single mothers. Slightly more than one third work full time or part time. Well over half (55%) are white; approximately 35% are African American.

Research has shown that intensive, long-term home visiting drastically reduces the incidence of future abuse and improves the child's health and development. Consequently, the HFA initiative through its creative outreach services serves as an effective prevention tool.

Families and Schools Together Program

Family Service Association of Bucks County also shared information on the Families and Schools Together (FAST) program, which serves children who are in kindergarten through the third grade and who are identified by their school to be at risk. Begun in 1988 and replicated nationwide by Prevent Child Abuse America in 1990, this research-based program seeks to lay a positive foundation

¹⁷⁰According to Family Support Services, Inc., in year 1, the William Penn Foundation accounted for over 80% of the HFA funding in Bucks County. In year 2, that percentage was approximately 78%. In year 3, however, the William Penn Foundation accounted for over 95% of the funding.

¹⁷¹According to the Fall/Winter 2000 newsletter of Family Support Services, Inc., in Pennsylvania in 1997, 73% of the abuse fatalities were children under five years of age.

for children to avoid future behaviors concerning delinquency, substance abuse and dropping out of school. This primary prevention program is strictly voluntary. The objectives of FAST are as follows.

- (1) Create and foster a school-family affiliation
- (2) Develop and improve support systems
- (3) Empower parents
- (4) Enhance family functioning
- (5) Reduce stress on families
- (6) Strengthen family bonds

Once each week on school property, the FAST team provides approximately 2½ hours of structured, predictable activities that do not involve alcohol, beginning with a family meal. Parents help to cook the meals. A typical evening then includes activities for children alone, support group meetings for the parents led by staff and former parent-graduates of the program and uninterrupted playtime between the parents and their children. The program itself lasts eight weeks, at which time a parent “graduates” from the program. Follow-up meetings are then held each month and continue for one to two years after graduation. On average, 15 to 20 families are recruited for the FAST program; generally ten families participate. Enrolled families do attend on a regular basis. Counselors, teachers and parent facilitators (those who have graduated previously from the program) are compensated for their work. FAST also pays for the food served.

Family Centers

A family center is a place within the community where parents and families can come together to share their experiences, support each other and learn about and benefit from the resources in the community.¹⁷² The philosophy behind the family center concept is that the most effective way to ensure the healthy development of children is to support their families and the communities in which they live. Local communities can more effectively support families and more readily recognize and respect the uniqueness of families. Therefore, a family center is not just a place or program but a process of engaging families and communities in developing and implementing integrated services. For the family center concept to work, the following characteristics must be present in some fashion.

- (1) A family center should be tailored to reflect the interests, needs and priorities of the community.
- (2) A family center should be school-based or school-linked, to assure successful transitions and use existing facilities and resources.

¹⁷²This definition and the information in this section is based primarily on information from the Center for Schools and Communities in Lemoyne, Pennsylvania (1999).

- (3) Activities at a family center should not be restricted to the physical boundaries of the site.

Effective family centers set the following priorities.

- (1) Promote positive child development through effective parenting, early intervention and outreach services
- (2) Support and preserve the family unit
- (3) Assure healthy development and health care services for children
- (4) Encourage economic self-sufficiency for families through adult education, training and employment
- (5) Provide a seamless, comprehensive and easily accessed network of services for families, through the following components:
 - (a) “One-stop shopping” for services
 - (b) Community and parent participation on collaborative boards
 - (c) Referrals to community services and programs
 - (d) Strong core of volunteers

Specifically, family centers should be equipped to provide the following services.

Adult self-sufficiency programs, including the following:

- (1) Child care while the parents are in training
- (2) English as a Second Language
- (3) General Equivalency Diploma (GED) classes
- (4) Literacy tutoring
- (5) Money management
- (6) Pre-employment counseling
- (7) Specialized computer training
- (8) Vocational assessments, job training and counseling

Health services, including the following:

- (1) Child health and development screenings
- (2) Child immunizations, tracking and referral
- (3) Health, nutrition and safety education
- (4) Linkages to primary health care and insurance providers
- (5) Prenatal and childbirth education

Child development and parenting education, including the following:

- (1) Child development education, including in-home education
- (2) Parenting education, including adolescent parenting programs
- (3) Parents as Teachers (PAT) programs
- (4) Parent support and information groups

Family supports, including the following:

- (1) After-school programs
- (2) Assistance with basic needs such as housing, transportation and food preparation

- (3) Family-centered activities
- (4) Individual and family counseling and referrals
- (5) Teen support groups

Family centers are credited with positive influences on the family structure. Among the beneficial outcomes resulting from family centers are the following.

- (1) Decrease of family dependency on public welfare and entitlement programs
- (2) Increase of the economic self-sufficiency for parents
- (3) Increase of referrals to primary and preventive health care for children and families
- (4) Increase of childhood immunization rates
- (5) Increase of identification of early interventions and referrals for services
- (6) Improvement in parenting skills and understanding of child development
- (7) Improvement in school readiness

Currently, Pennsylvania funds 48 family centers throughout the state, in 30 of the 67 counties. Twenty-three of these family centers are school-based, while 25 are community-based. In 1996-97, more than 5,500 families participated in family centers across Pennsylvania. In 2000-01, the state budget contained approximately \$9.7 million for family center funding, with 2/3 of that money coming directly from the federal government for family preservation and family resource and support. In 2001-02, the state budget line items for family centers contained approximately \$3.2 million from state funds and \$6.8 million from federal funds.

One specific example of an effective family center is that of Bristol Borough in Bucks County.¹⁷³ Begun in the early 1990s, the initiative targets the entire community, regardless of age or income. A community collaboration with “one-stop shopping,” the family center contains a food bank, a Head Start classroom, a pro bono attorney’s office, a welfare office, an on-duty police officer once each week, an intermediate unit and a children and youth services delivery office. Because the center clusters these offices, transportation problems are greatly reduced. Conference rooms are open to everyone for such activities as scout meetings and GED classes, and a computer room is accessible as well. The center serves approximately 2,000 families and 3,000 children, an overwhelming number considering that the population of the borough is just under 10,000.

The Family-to-Family initiative is another program that uses the family center concept as a model. Bristol Borough in Bucks County is a pilot site for this

¹⁷³The information regarding Bristol Borough is from the Family Service Association of Bucks County.

initiative. The stated goal of the initiative is to prevent out-of-home placement and develop community resources to strengthen and support children and families. Organizing and collaborating with the community, the service delivery team under the initiative meets with at-risk families and sponsors free “family nights.” Family nights occur at local elementary schools and consist of a 1½ hour program from 6 PM until 7:30 PM that includes parent education (approximately 20 minutes), games and activities. Children receive prizes, and parents receive household gifts. Fifty to 75 people attend each family night, with over 600 borough residents having attended over the course of each year. A year-end event brings out 500 people.

During the first year of the Bristol Borough family center and Family-to-Family initiative, funding came primarily from the Departments of Education and Public Welfare (72.73%) and the Pew Foundation (17.32%). Funding levels as a percentage of the total operating expenses, however, have varied significantly from year 1 to year 5, as the following chart summarizes.¹⁷⁴

Funding Source	Year 1	Year 2	Year 3	Year 4	Year 5
Departments of Education and Public Welfare	72.73%	45.77%	46.62%	71.30%	56.82%
Bucks County Children and Youth	--	13.32%	14.88%	11.99%	21.50%
Pew Foundation	17.32%	9.96%	10.21%	15.61%	13.90%
William Penn Foundation	--	23.17%	27.60%	--	--

Teen Centers

Closely related to the family center concept, teen centers serve as an effective tool to prevent high-risk teen behaviors, such as truancy, dropping out of school, smoking, drug and alcohol use and sexual activity. One teen center model was developed by Family Service Association of Bucks County in December 1996. Located in the Oxford Valley Mall, the teen center provides not only a convenient location but convenient hours (the same as the mall). It is a “drop in” center on Thursdays and Fridays from 1 PM to 9 PM during peak “at risk” hours and generally serves youth from 14 to 18 years of age. On Thursdays, the teen center reports anywhere from 18 to 30 youths; on Fridays, those numbers swell to 50 to 120. Since its inception, approximately 600 youths have visited the teen center, and over 6,500 visits have occurred there. The Oxford Valley Mall Teen Center offers education assistance, counseling and referral and brief crisis intervention. Three counselors with master’s degrees provide informal

¹⁷⁴Percentages in the columns of the chart do not add up to 100% because only the primary funding sources are shown.

supervision and facilitate group and individual sessions on such topics as family relationships, sexuality, substance abuse, school problems and peer conflicts.

The operating costs of the teen center exceed \$70,000 per year. Fortunately, the landlord itself absorbs the rental expenses of \$20,000; however, this still leaves \$50,000 in operating costs. Funding for the Oxford Valley Mall Teen Center comes from a variety of sources. Local foundations and businesses provide monetary donations and in-kind contributions. However, a great deal of time and effort is necessary to pursue and apply for this funding. In addition, the funding sources vary from year to year, making planning and implementation of services less consistent and more difficult than they would be if funding sources were more reliable.

Communities That Care

The 1992 reauthorization amendments to the Federal Juvenile Justice and Delinquency Prevention Act included a new program under Title V of the Social Security Act (Title V) emphasizing risk-focused delinquency prevention through comprehensive community-based planning and implementation. The Communities That Care (CTC) model, administered in this state through the Pennsylvania Commission on Crime and Delinquency, served as a basis for the Title V guidelines. CTC has been implemented in over 500 communities across the United States since its inception in 1988.

The CTC model is based on the premise that in order to prevent a problem from happening, the factors which increase the risk of the problem developing in the first place must be identified and strategies to reduce the risks must be formulated and implemented. Under the CTC model, it is essential to involve key community leaders, such as municipal officials, judges, school administrators, the police, religious leaders and business leaders. These types of individuals have the status, resources and authority to implement a comprehensive prevention project. The community develops a policy prevention board to oversee the local prevention assessment, planning and program implementation process, which includes an evaluation of the risk factors that exist within the community.

In general, CTC is an operating system that provides research-based tools to help communities promote positive development for children and youth and prevent adolescent substance abuse, delinquency, teen pregnancy, dropping out of school and violence. The effectiveness of CTC is the result of its following characteristics.

- (1) Based on rigorous research from a variety of fields, such as sociology, psychology, education, public health, criminology, medicine and organizational development

- (2) Community-specific, where each community uses its own data-based profile to craft a comprehensive long-range plan for strengthening existing resources and filling identified gaps
- (3) Identifies and addresses priority areas before young people become involved in problem behaviors, thereby targeting early predictors of problems rather than waiting until the problems have become entrenched in the lives of the young people
- (4) Promotes healthy development by engaging all areas of the community

CTC has identified the following risk factors that lead to adolescent problem behaviors.

Community

- (1) Availability of drugs
- (2) Availability of firearms
- (3) Community laws and norms favorable to drug use, firearms and crime
- (4) Extreme economic deprivation
- (5) Low neighborhood attachment and community disorganization
- (6) Media portrayals of violence
- (7) Transitions and mobility

Family

- (1) Family conflict
- (2) Family history of problem behavior
- (3) Family management problems
- (4) Favorable parental attitudes and involvement in the problem behavior

School

- (1) Academic failure beginning in late elementary school
- (2) Early and persistent antisocial behavior
- (3) Lack of commitment to school

Individual/Peer

- (1) Alienation and rebelliousness
- (2) Early initiation of problem behavior
- (3) Favorable attitudes toward problem behavior
- (4) Friends who engage in problem behavior

Parents, teachers and community members who hold clearly stated expectations regarding the behavior of young people help to protect the young people from risk. Parents who develop and reinforce clear family rules about drug use, school attendance and performance, sexual behavior and behavior in the family and community create a buffer for their own children as they move into the

high-risk adolescent years. One of the most effective ways to reduce the risks of a child developing problem behavior is to strengthen the bonds with family members, teachers and other socially responsible adults. Research shows that children living in high-risk environments can be protected from behavior problems by a strong, positive relationship with an adult who cares about them and is committed to their healthy development. The adult can be any parent, teacher, family member, coach or employer.

Research has also identified the following three criteria that build strong bonds between young people and the significant adults in their lives.

- (1) Opportunities for involvement in their family, school and community, to make a real contribution and feel valued for it
- (2) Social, academic and behavioral skills, to take advantage of the opportunities provided in their families, schools and communities and be successful in that involvement
- (3) Recognition for involvement

In its annual reports to Congress in 1996 and 1997, the Office of Juvenile Justice and Delinquency Prevention provided both quantitative and qualitative data on the CTC operating system in Title V subgrantee communities. Among the successful results are the following.

- (1) Coordinated allocation of resources
- (2) Improved interagency collaboration
- (3) Increased involvement of professionals, citizens and youth in community prevention activities
- (4) Increased leveraging of resources for prevention programming
- (5) Increased use of research-based approaches that have demonstrated effectiveness
- (6) Reduction in the duplication of services
- (7) Targeting of prevention activities to priority risk factors, thereby resulting in a more strategic approach

In fiscal year 2000-01, the state budget included \$2.1 million in new state funding for the Governor's Community Partnership for Safe Children to support the CTC initiative. As of January 2001, CTC projects were located in 107 municipalities and jurisdictions in 55 of Pennsylvania's 67 counties.

After-School Programs

With more and more children living in families with either a single parent or both parents working outside the home, lack of supervision during after-school

hours is a serious and growing problem.¹⁷⁵ In 1998, for example, 355,000 families with children in Pennsylvania, or 25%, were headed by a single parent, up from 21% in 1990.¹⁷⁶ Statistics from the year 2000 reveal similar results (25.1%).¹⁷⁷ In Pennsylvania, at least 1.27 million children are in families with all parents working. The differential between the time children leave school and the time parents get home from work can amount to 20 to 25 hours per week. Nationwide, approximately eight million children from 5 to 14 years of age spend time without adult supervision on a regular basis. Four million of these children are between 5 and 12 years of age.

The implications of lack of parental supervision and support during after-school hours raise serious concerns, such as the following.

- (1) Studies by the FBI and others have revealed that the peak hours for juvenile crime and victimization are from 2 PM to 8 PM.
- (2) Violent crimes by juveniles - murder, sexual assault, robbery and aggravated assault - peak between 3 PM and 4 PM, the hour at the end of the school day.
- (3) The after-school period from 2 PM to 8 PM is the time that teenagers are most likely to commit crimes, be victims of crime, get into automobile accidents, engage in sex, smoke, drink and use drugs.
- (4) Nearly 4.5 million children 14 years of age and younger are injured in their own home every year, and most nonintentional injury-related deaths occur when children are out of school and unsupervised.
- (5) Children without adult supervision are at significantly greater risk of truancy, poor grades, risk-taking behavior and substance abuse. Without educational success and competencies, children are less likely to graduate and be prepared to enter employment and higher education opportunities. Instead of growing into a contributing workforce, they become a drain on society's resources.
- (6) Children's most common after-school activity is watching television, which can encourage aggression and discourage literacy.

Quality after-school programs serve a fundamental need in today's society and offer many benefits, including the following.

- (1) Improvement in parent productivity in the workplace, because parents miss less time from work and are more confident of their child's well-being

¹⁷⁵Unless otherwise noted, statistics in this section come from Focus Five: Pennsylvania's Campaign for Children and Families, *Unsupervised and Unsafe: After-School and Youth Development Programs* (March 5, 2002), which quotes other sources in its white paper.

¹⁷⁶The Annie E. Casey Foundation, *Kids Count Data Book 2001*, at 119, 159.

¹⁷⁷Pennsylvania Partnerships for Children, *The State of the Child in Pennsylvania: A 2002 Guide to Child Well-Being in Pennsylvania* 14 (2002).

- (2) Improvement in the student's school performance, concerning academics, attendance and behavior in the classroom, in addition to lower dropout rates than those students who did not participate in quality after-school programs
- (3) Increased likelihood that students will go to college after high school graduation
- (4) Less likelihood that the young person will be a victim or perpetrator of a crime
- (5) Making neighborhoods safer by reducing the incidence of juvenile crime and violence
- (6) Preparing young people for college and the workplace
- (7) Providing young people with a safe, supervised environment
- (8) Reduction in risky and harmful behaviors, including smoking, drug use and sexual activity¹⁷⁸
- (9) Tax savings, under the assumption that prevention dollars save future costs related to crime and welfare, with one study by the Center for the Study and Prevention of Violence showing that an effective after-school program saves \$3 for every \$1 spent

The need for after-school programs is great. The results of a recent statewide survey revealed that more than half the respondents stated that it was difficult for parents to find affordable, quality after-school programs in their area. Current federal and state funding falls far short of meeting the need. The two largest federal funding programs, the Child Care Development Block Grant and the 21st Century Community Learning Centers, serve fewer than two million of the 35.8 million children in this country who are between 5 and 13 years of age. Pennsylvania has received only enough of these federal monies to fund 18 after-school programs across the entire state in the first two years of the program. Unlike more than half the other states, Pennsylvania does not have an initiative specifically supporting local after-school programs. In 2001, Pennsylvania did allocate \$15 million in Temporary Assistance for Needy Families (TANF) funds for youth development programs, but that only served a small fraction of the children in need of after-school activities. The state's subsidized child care funding is an important revenue source used to support after-school and youth development programs, particularly for school-age youth. However, these dollars are limited in their availability, purpose and eligibility requirements and are not sufficient to support the many school-age children and youth who are not currently able to access these services. It is estimated that the after-school programs under the CTC initiative cost \$1,000 per child per school year.

Proposed Recommendations. The Subcommittee on Options Outside Placement discussed the following specific recommendations regarding after-school

¹⁷⁸For example, the U.S. Department of Health and Human Services reported that students who spend time in extracurricular activities such as after-school programs were found to be 49% less likely to use drugs and 37% less likely to become teen parents.

programs. However, the advisory committee did not discuss or reach consensus on these specific recommendations.

- (1) Access to quality after-school and youth development programs should be increased by pooling and expanding revenue sources, which currently center around the Federal 21st Century Community Learning Centers program and the state's \$15 million allocation of TANF dollars for youth development. Any expanded after-school program should be flexible and based on community needs, with special emphasis on such components as homework assistance and extra learning opportunities, tobacco prevention and cessation activities, mentoring and training programs that build skills for entering the workforce.
- (2) Assistance should be provided through a statewide technical resource center network to help local programs deliver effective, research-based activities and to monitor program performance. The technical assistance should include assistance with the development of agreements to use school facilities, strategies to secure additional funding from federal and other sources, methods for connecting homework-assistance activities to students' academic performance needs and establishment and monitoring of performance measures to gauge success. One possibility for the administration of this assistance is to expand the current responsibilities of Pennsylvania's four regional Child Care Resource Development Offices.
- (3) Incentives should be provided for counties to redirect existing child welfare funding to effective after-school and youth development programs from high-end crisis intervention and placement, thereby creating a budget-neutral prevention tool.
- (4) Pennsylvania should ensure that sufficient resources are available to provide greater access to subsidized services for eligible working families and to avoid the need for waiting lists with respect to the state's subsidized program.

Mentoring Programs

Mentoring programs provide positive role models for at-risk young people and are either community-based or school-based.¹⁷⁹ The benefits of high quality mentoring programs for young people are well-documented and include the following.

¹⁷⁹Unless otherwise noted, the information in this section comes from *Contemporary Issues in Mentoring* (Jean Baldwin Grossman, ed.).

- (1) Better attitudes toward school, family and the future
- (2) Decreased likelihood of initiating drug and alcohol use
- (3) Decreased likelihood of physical violence
- (4) Decreased substance use
- (5) Improved academic performance
- (6) Improved relationships with friends and family
- (7) Improved self-esteem
- (8) Increased likelihood of participating in college preparatory activities and attending college immediately after high school graduation
- (9) Less truancy

The key to creating effective mentoring relationships lies in the development of trust between the volunteer and the young person. To that end, effective program practices must encompass a screening process, comprehensive orientation and training for the mentors and ongoing support and supervision. Effective mentors maintain a steady presence in the life of the young person, respect the viewpoint of the young person, pay attention to the need for “fun,” acquaint themselves with the mentees’ families without becoming too involved with them and seek the advice of program staff.

Many mentoring programs do not have their own separate budgets; rather they are integrated into the budgets of other programs. In addition, there generally is a difference between the operating budget amount for a mentoring program and the total resources actually needed to administer the mentoring programs. Although many such programs receive considerable financial support from the community, most also have volunteers who contribute time and receive donated goods and services from the community. Staffing includes a mixture of mentors, professionals, managers and support personnel. While it is difficult to pinpoint the amount that the average mentoring program spends per youth per year, given the wide disparity among the size of programs and level of donated goods and services, the average amount spent ranges from \$1,114 to \$2,289, with the median expenditure ranging from \$685 to \$1,533. It is estimated that the costs of the mentoring programs under the CTC initiative range from \$600 to \$1,300 per child per year.

Mentoring programs take many forms. The following summarizes four model programs regarding mentoring.

10,000 Mentors, working in partnership with the Newark, New Jersey public school system. The system funds approximately half the program’s \$350,000 costs, chooses participating elementary schools from the city’s most disadvantaged neighborhoods, and provides on-site program coordinators with access to teachers, administrators and guidance counselors. Foundations, local businesses and public agencies provide additional funding. Approximately 500 pairs of mentors and students were active by the end of the 1997-98 academic year. The children are

recommended by their teachers and counselors. Adult mentors meet their mentees for at least four hours each month for one year. The references of the mentors are carefully checked. The goals of the program are to improve academic performance, increase respect for oneself and others and develop a positive work ethic.

Hospital Youth Mentoring Program, initially a \$2.7 million, four-year pilot program operated by the Johns Hopkins Hospital for The Commonwealth Fund, the Hospital Youth Mentoring program was continued, with 15 hospitals that were paired with nearby high schools and middle schools continuing the project with their own funds. The program seeks to use mentoring to promote career development. Student selection criteria include being at risk economically, earning at least a C average and showing interest in the program. Students make weekly visits to the hospital. Twice each month the student meets with the mentor, and twice each month the student learns about the hospital and engages in career development activities. A total of 850 youth participated in the pilot program, and more than 700 youth were involved in the program from 1997 through 1998.

Sponsor-A-Scholar, a project of Philadelphia Futures. The program provides well-motivated C students from poorly-performing high schools with five years of mentoring, academic support, assistance with choosing and applying to colleges, financial incentives to do so and continued contact throughout the postsecondary years. Founded in 1990 with support from the Commonwealth Fund, the program has served 450 students, 186 of whom have graduated from high school and gone on to higher education. The program's annual budget is approximately \$500,000, primarily from foundation grants. Individuals and corporations provide \$6,000 per student in the program to cover college-related expenses. Mentors and students are paired in the beginning of the ninth grade and meet at least monthly through high school. Once in college, the contact is primarily by telephone and e-mail, with face-to-face meetings during breaks. The high school students are also offered tutoring; workshops on study skills, writing, personal development and college preparation; career exploration; visits to colleges; help with college applications and requests for financial aid and access to help in problem solving through their postsecondary careers.

Big Brothers Big Sisters of America (BBBS). This century-old prototype was sustaining 100,500 traditional matches and 25,000 other types of mentoring relationships in 1997. Over 35,000 youths had to be placed on waiting lists. The BBBS network includes 507 agencies with annual budgets ranging from \$50,000 to \$3 million covering caseloads of 30 to 1,500 matches, at an annual cost of approximately \$1,000 per match. The budget of the national office, which sets and monitors the program's

detailed standards, is \$6 million. Friendship and positive youth development are the cornerstones of the BBBS program.

Valley Youth House

Valley Youth House, located in the Lehigh Valley, assists young people and their families with abuse, neglect and family disintegration issues through prevention, crisis intervention and long-term help. Services are provided by a professional staff, community volunteers and student interns at offices, residential facilities, schools and family homes throughout the region. Approximately 95% of the youth and families come from Lehigh and Northampton Counties. Financial support comes from private donations, fees, the Lehigh and Northampton County governments, the United Way of the Greater Lehigh Valley, the Commonwealth of Pennsylvania and the federal government. The mission of Valley Youth House is to provide shelter, counseling, prevention and life skills services to troubled youth and their families, in order to strengthen the family and assist in healthy and productive youth development. At Valley Youth House, the focus remains on the children; services are recognized as most successful when they are community-based, high-quality, provided in a continuity of care context and provided in a fiscally responsible manner.

The Valley Youth House Shelter operates a 12-bed facility for runaway, abandoned, homeless, troubled, abused and neglected youth between 12 and 17 years of age. Counseling and shelter services are provided at any time during the day or night. A 24-hour emergency hotline for youth and parents is operated from the shelter, which also serves as the agency's crisis management center. The shelter is Pennsylvania's largest and the nation's eighth largest of the 300 existing runaway and homeless youth shelters. A staff of nine provides counseling to each youth and family. The average shelter stay is ten days, although follow-up therapeutic services are offered and generally accepted.

A Street Outreach Program was initiated in 1999 as a branch of the shelter services. In a fully equipped van, two full-time and two part-time staff travel a daily route to sites in the community where youth living on the streets or in inappropriate settings can be reached. Services include counseling, referrals, first aid, clothing distribution and meals.

Valley Youth House also provides an independent living program, consisting of the Outreach Program for Adolescent Life Skills (OPALS), the Transitional Living Program (TLP) and the Realistic Environment for Adolescent Living Program (REAL). Staff in all three programs provides assistance to adolescents who are 16 to 20 years of age in the areas of education, employment, residential planning and attainment, life skills and interpersonal skills. Therapy and counseling are also included services.

The Pre-adolescent Treatment Home Services (PATHS) program provides residential services in a community setting for up to eight children from 7 to 12 years of age who are in the custody of public child welfare agencies. These children have personal and family difficulties that make them unable to remain in their own homes, but the difficulties are not so severe as to preclude the children from remaining in the community. The goal of the program is to improve the children's behavior through counseling and structured daily activities, thereby enabling the child to return to the family home or foster home.

Valley Youth House also offers child welfare treatment services, including the following.

Adolescents and Families Together (AFT), an outpatient community counseling program for at-risk children and their families. AFT is an aftercare service for youth staying at the shelter, a truancy prevention program for selected area school districts and a family treatment program for Northampton County Juvenile Probation. The program provides individual, group, parent and family counseling services. It also addresses child sexual abuse issues. Extensive case consultation services to schools and social service agencies are also provided. Services are provided on a sliding fee scale, which is lower than that of private service providers.

Child Mentoring Program, which matches a mentor with a child from 5 to 16 years of age who has been identified as at-risk by the Northampton County Children and Youth Services agency. One-on-one mentoring services include role modeling, tutoring, teaching, life skills development and recreational activities.

Family Preservation Program, begun in 1989 in partnership with Lehigh and Northampton County child welfare and mental health agencies. The staff of this placement prevention program provides up to ten hours each week of services to families who have a child at imminent risk of foster placement due to the presence of physical abuse, substance abuse, neglect, serious emotional illness and parent-child conflict. Counseling, case management and concrete services are provided to families in their homes for a period of three to twelve months. Staff is available to families 24 hours a day, seven days a week.

Valley Youth House also offers several prevention and intervention services, including the following.

Drug and Alcohol Prevention and Education Program, whose services include preventive counseling, education and life skills using group formats and truancy prevention groups.

Family Intervention Program, whose services include comprehensive and coordinated intensive services to families in which children are identified as being at risk of maltreatment due to substance abuse issues within the family. Respite foster care, emergency shelter, medical services, parenting training and homemaking services are provided on a limited basis through private service providers.

Project Child, a community coalition with the mission of eliminating child abuse and neglect in the Lehigh Valley. It focuses its efforts on public education, legislative advocacy and parenting programs and assistance.

Student Assistance Program, which provides short-term mental health counseling services to children in selected schools.

Beacon Schools

The Beacon School model in New York City was built on the experience of collecting multiple services in one place to make them more accessible and attaching health and other services to schools. The Beacon School model also endeavored to make school-based services part of a community-building venture, with implementation occurring in different ways in different places. Recommended as a response to the need for safe havens for children, youth and families in troubled city neighborhoods, the model was developed to transform schools into community centers, which are available to children and adults on a year-round basis. The requirements for applicants only were that they be community-based with a community advisory council, that school buildings be kept open into the evenings and all year round and that needed services, supports and safe and constructive activities be made available. No specific services were mandated. However, applicants were advised to collaborate with local agencies so that the services could be as comprehensive and creative as possible to address the community needs.¹⁸⁰ Beacon Schools have provided a positive alternative to “the streets,” with classes in drama, dance, video, community service, job readiness and computer learning. In addition, Boy Scouts meet at certain facilities, and Fridays may be designated as “Teen Movie Night.”

Community-Based Prevention Services in Philadelphia

The Subcommittee on Options Outside Placement also received information from the City of Philadelphia, Department of Human Services (DHS), Division of Community-Based Prevention Services, which outlined approaches and challenges to providing services in the city.

¹⁸⁰For a detailed discussion about Beacon Schools, see Schorr, *supra* note 156, at 47-55.

Coordination and Administration

Major collaborations by the Division of Community-Based Prevention Services with respect to administering prevention services occur with the following entities.

- (1) Behavioral health system
- (2) DHS Children and Youth Division (CYD)
- (3) Faith-based organizations
- (4) Families and communities
- (5) Juvenile justice system
- (6) Public and private schools
- (7) Other service systems, regarding such things as housing, employment and aging

Basic principles concerning the coordination of services include the following.

- (1) Accessibility
- (2) Accountability
- (3) Evidence-based strategies
- (4) Integration
- (5) Investment in and organization of communities
- (6) Targeted services to vulnerable families

The division has established target populations that it seeks to serve. Families may be identified through the DHS hotline and intake system. Referrals may come from schools, courts, youth aid panels and providers within CYD and the juvenile justice system. The division also invites families of first-time youth offenders and youth in transition from school, CYD, the juvenile justice system and the behavioral health system to benefit from its services. Neighborhoods exhibiting higher incidence of needs are also targeted.

The approaches of the division include the following.

- (1) Access to services through community-based “one-stop shopping” sites
- (2) Community stakeholder groups
- (3) Linkage to services through other systems
- (4) Public information campaigns and hotlines

Specific Programs and Services

Specific programs and services offered through the division include the following.

- (1) Community family centers
 - (a) Case management and social work
 - (b) After-school programs and youth development
 - (c) Parenting education and support
 - (d) Linkage to other services

- (2) Truancy-related social services
 - (a) Court case management and social work
 - (b) School Attendance Improvement Project
 - (c) After-school programs and tutoring
 - (d) Family preservation and in-home services
 - (e) Faith-based volunteers
 - (f) Public awareness campaigns
 - (g) Community organization

- (3) Other school- and community-based programs
 - (a) School-Linked Behavioral Health Project, including consultation services, the availability of education specialists and integration with a comprehensive support process
 - (b) City-Funded After-School Network, including recreation, health, library, park, and community activities and the United Way Training and Technical Assistance Center
 - (c) Youth development and mentoring

- (4) Delinquency prevention programs
 - (a) Day treatment programs
 - (b) In-home services
 - (c) Counseling programs
 - (d) Transition programs
 - (e) Community awareness

- (5) Parenting support and education projects
 - (a) Parent Action Network
 - (b) Community-based support groups and education
 - (c) Information and referral system, including resources guides and a public awareness campaign
 - (d) Home visiting and intensive support programs
 - (e) Training and technical assistance center

- (6) Information and referral to DHS services and public and private service providers

- (7) Prevention library

Challenges

Major challenges to the system in general have included the following.

- (1) Building a political and community consensus for new and significant investments in prevention services
- (2) Institutionalizing the prevention system
- (3) Integrating the prevention system into DHS and other social service systems
- (4) Redefining DHS-supported prevention concepts

Specific challenges also are inherent in individual programs, including the following.

Family centers

- (1) Establishing core service requirements and accountability mechanisms
- (2) Strengthening performance and outcome measures
- (3) Developing a coherent referral system with CYD, the juvenile justice system, the behavioral health system, the Health Department, schools, courts, and community agencies
- (4) Raising standards of after-school, youth development and parenting programs
- (5) Expanding the availability of family centers
- (6) Upgrading staffing capacity at family centers
- (7) Strengthening community involvement standards and outreach strategies
- (8) Strengthening coordination with other youth programs in neighborhoods, faith-based groups, and schools
- (9) Strengthening community awareness of family center services

Truancy prevention

- (1) Building a community stakeholders network to encourage attendance and combat truancy
- (2) Strengthening performance and outcome standards for DHS-funded providers
- (3) Strengthening early intervention programs
- (4) Strengthening Truancy Court effectiveness
- (5) Developing truancy specialization standards in such things as family preservation and in-home services
- (6) Expanding public awareness activities
- (7) Strengthening linkages with other youth-oriented programs and services

Delinquency prevention

- (1) Targeting services to first-time offenders and others at serious risk
- (2) Developing clear standards and performance outcome measures
- (3) Strengthening collaboration with courts, police, CYD, the juvenile justice system, the behavioral health system and schools
- (4) Strengthening transition programs for youth to acclimate them back into the community

Parenting collaboratives

- (1) Developing a consensus for effective strategies
- (2) Expanding community-based education, peer support and intensive in-home services
- (3) Establishing performance standards and outcome measures
- (4) Developing a training and technical assistance center for DHS providers
- (5) Strengthening public awareness

Other school- and community-based programs

- (1) Expanding school-based behavior management approaches and staff development
- (2) Integrating the DHS prevention system into the school comprehensive support process
- (3) Expanding after-school and youth development opportunities, while meeting city standards
- (4) Expanding mentoring services
- (5) Strengthening services for homeless families

Budget

The Division of Community-based Prevention Services summarized the distribution of their fiscal year 2002 proposed budget as follows.

Service	Percentage
Family Centers and Truancy Prevention	36
Delinquency Prevention	18
After-school Programs and Youth Development	16
Home Visiting	9
School-based Counseling and Education	7
Parenting programs	4
Other	10

The fiscal year budget totaled \$17.7 million, which represented approximately 4.5% of the total DHS budget dedicated to prevention services. The proposed budget for fiscal year 2002 totaled \$26.4 million, meaning that approximately 5.7% of the DHS budget was proposed to be dedicated to prevention services.

Administrative and Fiscal Challenges

The Subcommittee on Options Outside Placement reviewed administrative and fiscal challenges regarding developing and implementing prevention programs. The most important areas concerning these challenges include funding streams, accountability, technology needs, administrative costs and program flexibility.

Although not officially within the scope of the scope of its work, the subcommittee did receive information on other administrative matters. Many of these issues were discussed by other subcommittees and are included elsewhere in this report.

The adolescent consumers that were guest speakers raised the following issues.

Regarding caseworkers

- (1) Developing trust
- (2) Consistency
- (3) Improving developmentally-appropriate communication
- (4) Listening and following through
- (5) Providing information to a child and being honest (e.g., assessment of a parent's problems and steps necessary for reunification)
- (6) Improving training to handle complicated family situations
- (7) Having fewer changes in caseworkers during a case
- (8) Providing recourse when a child is dissatisfied with a caseworker

Regarding the process

- (1) System coordination (e.g., counseling, housing and medical support)
- (2) Focusing on the child
- (3) Handling cross-jurisdictional issues (e.g., other family members in another state)
- (4) Involving a child in comprehensive planning
- (5) Acknowledging the strong desire for a child to return home
- (6) Making available adequate resources to help families
- (7) Reacting to immediate needs versus long-term services
- (8) Reducing the number of placements and transfers for a child

- (9) Improving feelings of powerlessness throughout judicial process
- (10) Improving the availability of mental and emotional counseling
- (11) Answering questions concerning foster parents (e.g., qualifications and motivation)
- (12) Addressing the timeliness of intervention
- (13) Determining the appropriateness of mandated time limits under the Adoption and Safe Families Act concerning the individual needs of a child

The caseworker guest speakers raised the following issues.

- (1) Increasing compensation levels for caseworkers and staff
- (2) Decreasing caseloads by hiring more qualified caseworkers and staff
- (3) Improving more intensive, in-home, family-focused prevention services
- (4) Subcontracting services
- (5) Improving crisis response
- (6) Decreasing stress levels and improving working conditions
- (7) Building and fostering team support approach
- (8) Disseminating information regarding regulations and laws
- (9) Increasing the number of programs for parents and children together
- (10) Addressing concerns about failed adoptions
- (11) Implementing more open adoptions
- (12) Improving kinship care
- (13) Providing more resources
- (14) Providing more housing assistance, particularly regarding supervised or assisted housing for clients with mental health and mental retardation issues
- (15) Acknowledging that the primary focus should be on drug and alcohol counseling for children and families
- (16) Maintaining flexibility and tailoring services to meet individual needs
- (17) Reducing paperwork

Family Service Association of Bucks County provided several examples of practical problems faced for service providers, including the following.

- (1) The difficulty in securing continuing funds, beyond initial grants
- (2) The cost of accountability, since each funding entity has different expectations and methods of analyzing performance
- (3) Technology needs, specifically keeping pace with computer hardware and software
- (4) Programming difficulties in light of categorical funding
- (5) Need for flexibility to provide comprehensive services
- (6) The inability to receive funding to cover administrative costs
- (7) Time preparation and complexity regarding grant requests

- (8) Insufficient salaries for caseworkers, leading to high staff turnover rates and burnout

Every Child, Inc. echoed the concerns regarding the availability of funding from private foundations. It observed that at a certain point, foundations begin to question why the private sector must support these very successful prevention efforts and why the state is not doing more. Furthermore, it noted that it is becoming increasingly difficult to maintain funding levels and continue to provide prevention services; unfortunately, many programs proven to be successful are discontinued due to the lack of sustained private grant funding. Because of limited and sometimes restrictive funding, agencies like Every Child, Inc. only accept the most vulnerable children and families, leaving countless others without services. Although Pennsylvania has begun to address prevention efforts in general, children who are medically fragile have typically been excluded (perhaps unintentionally) from most prevention initiatives.

Public agencies are also hamstrung by programming and reporting requirements of the federal and state governments. Detailed paperwork regulations reduce the amount of time that caseworkers can devote to providing direct services and assistance to families and children.

Recommendations

The Subcommittee on Options Outside Placement discussed how to focus on prevention efforts and concentrated on segregating prevention dollars and overseeing the coordination and delivery of prevention programs. It believed that increased attention and the commitment of resources would yield the following benefits.

- (1) Confirmation of the importance of prevention services
- (2) Ensuring a continued focus on prevention services
- (3) Providing a framework for oversight regarding the effectiveness of prevention services
- (4) Ensuring continuity of prevention services, while reducing overlap
- (5) Improving coordination and delivery of prevention services
- (6) Heightening fiscal awareness of the need for prevention services
- (7) Improving accountability regarding prevention services
- (8) Improving the ability to serve the public and answer questions regarding prevention services, since jurisdiction would not be scattered throughout multiple government entities

The subcommittee did not believe that enough attention is presently given to prevention efforts and noted that prevention efforts are often given lower priority in favor of pressing needs concerning children already in placement or within the jurisdiction of the children and youth services delivery system.

Governmental Framework

To ensure that prevention efforts receive adequate attention, the subcommittee favored the creation of a new government entity to coordinate policy and allocate resources for prevention programs and services. The subcommittee believed that such an entity responsible for prevention efforts should address the administrative and fiscal challenges noted above and provide information regarding how to develop and implement effective prevention programs and services, such as those outlined previously.

Accordingly, the subcommittee discussed several options, including the following.

- (1) A new Department of Children and Youth within the Cabinet
- (2) A separate Office of Prevention Services within the Department of Public Welfare, Office of Children, Youth and Families
- (3) An Office of Prevention Services under the direct control of the Governor

Cabinet Department. The subcommittee believed that a new department responsible for coordinating programs and services for children and youth would provide much-needed visibility for prevention efforts and would improve the children and youth services delivery system. However, because of the difficulty in creating the structure for a new Cabinet-level department and shepherding enacting legislation through the legislature, the subcommittee chose to focus on a more moderate, manageable structure to achieve the goal of ensuring that prevention efforts are afforded proper attention.

Office of Prevention Services within the Department of Public Welfare. The subcommittee discussed at length the possibility of establishing a separate Office of Prevention Services within the Department of Public Welfare, Office of Children, Youth and Families. As envisioned, the office would coordinate prevention services from across the many bureaucratic entities, in order to reduce the number of placements through the children and youth services delivery system. Family preservation and outreach would also be important functions of the office. Different disciplines which concern children and family issues and placement would fall under the jurisdiction of the new office, including public welfare, health, behavioral health, mental health and mental retardation, drug and alcohol, education, employment and vocational rehabilitation and housing. Separate prevention programs, like the ones previously described in this report, would be collapsed into this new office. Current budget line items regarding specific prevention programs would be transferred to the jurisdiction of the new office, with the possibility of set-asides for specific programs. In this regard, one entity would have jurisdiction over such prevention programs and would be charged with setting criteria and broad program goals for counties, emphasizing outcomes instead of procedural requirements. It would implement a process to

measure outcomes and verify that explicit outcomes are consistent with the goals of child safety, permanency planning and child and family well-being. The Office of Prevention Services would determine best practice standards, based on performance and outcome data, and encourage their use. Oversight of programs and services by the Office of Prevention Services would take the form of periodic evaluations, reports and audits. The Office of Prevention Services would keep records on programs and services so that agencies and other entities could review them. Collaborative efforts would exist between the public and private sectors.

Despite the avowed benefits of creating such an office within the Department of Public Welfare, the subcommittee recognized that implementing a cross-systems office within a department may in itself raise administrative and fiscal difficulties, particularly given the scope of the authority of the office. The subcommittee opined that placing an office of this nature within a department may have the unintended effect of focusing less attention on prevention efforts because the office would likely not have a high enough profile. The shifting of resources to the Department of Public Welfare would also likely meet resistance from other departments and agencies. In addition, categorical funding and revenue streams from the federal government would also impact the establishment of such an office.

Office of Prevention Services under the Governor. A third alternative was discussed regarding the creation of an Office of Prevention Services headed by a director appointed by the Governor, with the advice and consent of the State Senate. Positioning the office under the Governor would afford the office high visibility within the government. As envisioned, the director would serve at the pleasure of the Governor and would have specifically enumerated powers and duties regarding the basic administration of the office, including the following.¹⁸¹

- (1) Developing, coordinating and overseeing existing prevention services and determining the effectiveness of those services
- (2) Identifying best practices regarding prevention services
- (3) Developing new and effective prevention services
- (4) Developing improved prevention services for targeted populations
- (5) Identifying potential funding sources for new and existing funding sources
- (6) Overseeing efforts of governmental agencies to establish a benchmark of 5% of their budgets to be devoted to prevention services
- (7) Coordinating cross-systems approaches to prevention services
- (8) Providing technical assistance to state and local agencies to develop prevention services

¹⁸¹Many of these powers and duties were carried over from the discussions of the Office of Prevention Services within the Department of Public Welfare.

- (9) Assessing demographic and other data to assist agencies and departments in identifying areas of high need regarding prevention services
- (10) Sharing information regarding prevention services

The director would be assisted by a prevention services board consisting of the following individuals.

- (1) The Secretary of the Department of Public Welfare, or a designee of the Secretary
- (2) The Secretary of the Department of Health, or a designee of the Secretary
- (3) The Secretary of the Department of Education, or a designee of the Secretary
- (4) The Secretary of the Department of Labor and Industry, or a designee of the Secretary
- (5) The Secretary of the Department of Community and Economic Development, or a designee of the Secretary
- (6) The Insurance Commissioner, or a designee of the Commissioner
- (7) The Chair of the Pennsylvania Commission on Crime and Delinquency, or a designee of the Chair
- (8) Any other individual that the director deems necessary for the effective administration of the office

In this regard, the director would not only be able to receive input from the various governmental entities that formulate and implement policies impacting on prevention services in the Commonwealth but would be able to develop cross-systems approaches to facilitate how individuals receive prevention services.

The advisory committee approved the structure of the Office of Prevention Services under the Governor, including the enumeration of powers and duties of the director and the prevention services board. The proposed legislation for this new office follows this section on Proposed Recommendations. Sections 6380.4, 6380.5 and 6380.6 of the proposed legislation establishes the framework of the Office of Prevention Services.

County Prevention Efforts

The Subcommittee on Options Outside Placement discussed how to coordinate prevention services on the county and local level. Consequently, it developed a framework to create county prevention services coordinators, with powers and duties analogous to those of the director of the office of prevention services. The advisory committee agreed with this framework and specifically added that the county prevention services coordinators should develop a prevention services plan for the county, work with local community prevention

efforts and develop collaborative efforts for prevention services. Section 6380.7 of the proposed legislation describes the prevention services coordinators.

Block Grants and the RFP Process

The subcommittee supported the concept of the distribution of block grants by the Office of Prevention Services for prevention services to the counties, based upon each county's population and certain demographics, such as the county poverty rate, the availability of existing prevention services, the need for additional prevention services, the number of children served by the county agency, the number of children in out-of-home care and indicators generally associated with child well-being. The counties, in turn, would assess their own specific needs and decide how to invest the money with local private service providers through a Request for Proposal (RFP) process. A certain percentage of the block grant, however, could pay for county needs assessments. Public and private agencies would be able to develop prevention services paid by the block grant, and the RFP system would effectuate the competitive disbursement of prevention dollars. Service providers would then be provided flexibility in developing and administering prevention services.

The subcommittee concluded that if a county had developed a prevention program itself and administered it directly, the county would be able to fund its own program with block grant money, assuming that the program met the necessary standards set forth by the Office of Prevention Services. As a practical matter, the subcommittee acknowledged that the county, which would control the distribution of the block grant money, might be in direct competition with private service providers for such money. However, the county would still be accountable for its decision to fund its own program, since tax dollars would be involved and the county would want to fund the most effective, cost-efficient program available. By allowing block grant money to be used directly by the county for its own prevention initiatives, the subcommittee believed that the county could foster and expand its own prevention programs without the need to turn everything over to private service providers. In addition, some counties might not have private agencies to develop and implement prevention programs. Consequently, the county itself would be the sole entity to bear this responsibility. If the county, however, would choose not to provide its own prevention programs, then it would make all the block grant money available to local service providers through the RFP process. In any event, the responsibility of the Office of Prevention Services would be to have direct oversight over the block grant funds and RFP process to assure that the counties are not in any way abusing their authority and are honestly and realistically evaluating prevention services and community needs.

RFP applications would go to private agencies, public agencies, and public/private partnerships, with the counties having flexibility in administering

the block grants based on the needs of the local area. The RFP process would facilitate innovative developments and capacity building. The subcommittee rejected the approach of top-down, one-size-fits-all, procedure-driven program implementation. However, prevention programs funded through the RFP process would have the following characteristics.

- (1) Evidence-based, if practical¹⁸²
- (2) Consistent achievement of positive outcomes
- (3) Results consistent with program design
- (4) Replicable
- (5) Innovative or otherwise serving prevention needs

With respect to regulations currently spanning several departments, such as licensure requirements, it should be made clear that any entity that receives funds from the Office of Prevention Services through the RFP process or distribution of block grant money shall comply with other applicable laws and regulations.

The advisory committee approved the provisions concerning block grants and the RFP process. Sections 6380.9 and 6380.10 of the proposed legislation contain these provisions.

The subcommittee raised another issue regarding the RFP process: the possibility of allowing a private provider to request funds directly from the state, thereby bypassing a request to the county. The Office of Prevention Services could set aside additional money for this limited purpose. In this regard, the private provider would have recourse against a county that arbitrarily refused to consider its application or unfairly distributed block grant funds. The advisory committee did not discuss or reach consensus on this provision.

Technical Assistance and Administrative Costs

The Subcommittee on Options Outside Placement felt strongly that technical assistance should be made available through the Office of Prevention Services. Technical assistance would assist in the analysis of indicators to determine whether programs and services are effective, in program designs and in analyzing indicators that highlight community problems and needs. This type of technical assistance could include direct assistance to a public agency to complete an RFP application to develop a plan for the coordination of programs and services involving the county, private agencies and public/private partnerships. Technical assistance could be part of the normal administration of programs and services, to be included as an item in the RFP application and available to both public and private agencies. It could also be incorporated into the operating

¹⁸²This requirement is not intended to stifle innovation or prohibitively raise the costs of program development.

budget of the Office of Prevention Services, thereby eliminating the need for each agency to include it as an item in the RFP application. In any case, information would be pooled for collaborative efforts, and effective communication among the counties about successful and innovative prevention services would be critical.

The subcommittee believed that the payment of administrative costs should be permitted through the block grant payments and made part of the RFP application, thereby realistically reflecting the expenses associated with prevention services. It was suggested that these costs at a minimum should constitute 10% of the costs of developing and implementing prevention services. However, some counties might be able to absorb these costs more effectively, whereby the costs may not even reach the 10% mark. Providing for administrative costs should be as flexible as possible and should not encourage duplicative or wasteful practices.

The advisory committee agreed that technical assistance is a necessary component regarding the Office of Prevention Services and approved language regarding administrative costs, without incorporating a specific percentage in to the statutory language. Section 6380.10(d) of the proposed legislation concerns administrative costs.

Funding

The Subcommittee on Options Outside Placement stated that money should not be taken from other agencies to fund the services for family enhancement and outreach. Any funds received by a public agency under the new RFP process would be above and beyond what it currently receives. There was universal agreement that funding for services and programs dedicated to prevent placements should be increased, given the success of prevention initiatives and the fact that prevention investments made today save tax dollars tomorrow.

Funding would also be made possible through, for example, the use of waivers concerning requirements of Temporary Assistance for Needy Families (TANF) funds, money resulting from Title IV-E of the Social Security Act and funds appropriated by the General Assembly. It should also be noted that many prevention programs, including those highlighted in this report, would not be possible without the continued financial assistance of foundations and entities such as the United Way.

Of note is that New York received a Title IV-E waiver in December 1997 to use managed care principles and techniques to prevent entry into foster care, expedite family reunification, and decrease the length of time between entry into foster care and adoption, where appropriate. Under this five year demonstration project, participating districts offer targeted services to preserve and reunify

families, including day care, home visiting, family planning, home management, transportation, respite care, parent aide, and intensive home-based services. Districts use a prospective payment system and individually negotiate tailored payment arrangements with service providers. The specific target populations are children who can safely remain at home, children who return home from foster care with the provision of supportive services and children appropriate for adoption services.

Illinois received a waiver in September 1999 to assist families in substance abuse treatment and recovery by providing two levels of care for experimental group participants while providing traditional child welfare and substance abuse services to control group participants. This five-year demonstration project, implemented in Cook County (Chicago), targets custodial parents with a child who enters placement. Through this project, Illinois seeks to improve permanency outcomes for children of parents with substance abuse problems and to reduce the negative impact of parental substance abuse on children by assisting the family in treatment and recovery. Specific outcomes include achieving the following: higher rates of reunification, shorter lengths of stay in foster care, reductions in re-allegations of child abuse and neglect and higher success rates for completion of parental substance abuse treatment among experimental group participants.

Washington, D.C. also received a waiver in September 1999 for a five-year demonstration project. The city matches child welfare social workers with trained neighborhood-based community collaborative workers to serve kinship caregivers, parents and children, who receive family support services from teams of child welfare and community workers. Each collaborative is a partnership of residents, agencies and institutions within particular geographic boundaries who come together to provide a community-based system of service delivery to protect children and strengthen families. The initial target population was children being cared for by kinship providers who reside within particular boundaries, including both children who are committed to the child welfare agency and those who are placed with kinship providers under the jurisdiction of the D.C. Superior Court. Such children had been in foster care for an average of three to four years. Specific outcomes include increasing the number of children who receive permanency, reducing the amount of time needed to establish permanency, reducing the number of new foster care placements, improving the experiences with the child welfare system and reducing the incidents of child abuse and neglect.

Under the proposed legislation, specific funding sources are not listed, but the director of the office of prevention services is charged with identifying potential funding sources and accepting funds for prevention sources from various sources identified and pursued. These duties are set forth in section 6380.5(b) of the proposed legislation.

Needs-Based Budgeting

As part of the funding discussions, the Subcommittee on Options Outside Placement briefly addressed the needs-based budgeting process. With respect to the issue of medically fragile children, the members discussed allowing the counties to allocate money for prevention services for medically fragile children when preparing their needs-based budgets. In addition, the subcommittee opined that counties should be given fiscal incentives to provide prevention services and implement cost-saving techniques. For example, if a county receives \$10 million under its approved needs-based budget, but then through efficient measures and prudent administration spends only \$9 million, the \$1 million difference should not be returned to the state coffers. Instead, that \$1 million should be used for other necessary services within the county, such as prevention services or other services that a county may have in place. Because the money is required to be returned, no incentive exists to save money, perhaps through improved coordination efforts or more cost-efficient subcontracting measures. Nevertheless, this issue is not addressed in the proposed legislation that follows.

In a similar vein, the Subcommittee on Structural and Systems Issues reviewed statutory language to the following effect.

Notwithstanding any other provision of law, if a county agency meets stated outcomes and does not exhaust its annual budget appropriation, the county agency may retain the remaining budget appropriation and shall not be penalized for not exhausting appropriated funds. Unspent budget appropriations could be used to develop ways to improve the delivery of services or to fulfill county matching fund requirements.

The advisory committee did not discuss or reach consensus on this provision.

Proposed Legislation

The advisory committee approved the following proposed legislation.

*Proposed New Subchapter of the Child Protective Services Law
23 Pa.C.S. Chapter 63 (Child Protective Services)*

SUBCHAPTER D.2

PREVENTION SERVICES FOR CHILDREN AND FAMILIES

Sec.

- 6380.1. Short title of subchapter.
- 6380.2. Legislative findings and purpose.

- 6380.3. Definitions.
- 6380.4. Office of prevention services.
- 6380.5. Director of office of prevention services.
- 6380.6. Prevention services board.
- 6380.7. Prevention services coordinators.
- 6380.8. Cooperation.
- 6380.9. Block grants.
- 6380.10. Request for proposal process.
- 6380.11. Annual report.

§ 6380.1. Short title of subchapter.

This subchapter shall be known and may be cited as the Prevention Services for Children and Families Act.

§ 6380.2. Legislative findings and purpose.

(a) Findings.--The General Assembly finds the following:

(1) The Commonwealth should develop a coordinated strategy to reduce the number of child placements, preserve the family unit and foster reunification where appropriate and consistent with the child's health and safety and improve permanency planning for children and families.

(2) The Commonwealth and local communities should strengthen efforts to prevent child abuse and neglect and concentrate on critical problem areas that lead to the placement of children within the children and youth services delivery system, including, but not limited to, poverty, ineffectual parenting, lack of child supervision (particularly during after-school hours), drug and alcohol abuse, domestic violence, unmet housing needs, truancy, juvenile delinquency and indicators generally associated with child well-being, such as the following:

(i) The percentage of low birth-weight babies.

(ii) The infant mortality rate.

(iii) The child death rate.

(iv) The rate of teen deaths by accident, homicide and suicide.

(v) The teen birth rate.

(vi) The percentage of teens who are high school dropouts.

(vii) The percentage of teens not attending school and not working.

(viii) The percentage of children living in families where no parent has full-time, year-round employment.

(ix) The percentage of children living in poverty.

(x) The percentage of families with children headed by a single parent.

(3) Out-of-home placements represent a growing expense for the Commonwealth and may often be unnecessary if reasonable steps are taken to help families before their problems become critical and merit intervention by the children and youth services delivery system.

(4) The mandate of the Federal Adoption and Safe Families Act to make timely permanency decisions for children in placement can make it difficult

for some families ever to be reunified once they are separated.

(5) Unfortunately, out-of-home placements do not always serve children's long-term interests, and a large number of children formerly in foster care are later convicted of criminal offenses and incarcerated.

(6) Too often, prevention services are given inadequate attention because they are not the primary responsibility of any existing Commonwealth agency.

(7) To improve prevention services, it is essential to further develop research into the efforts that best succeed, so that successful efforts may be replicated and expanded.

(8) An entity charged specifically with coordinating programs, services and funding to prevent child placements will foster innovative prevention efforts and be better equipped to develop cross-systems approaches to deliver services to children and families.

(9) Given the long-term effectiveness of prevention services and the need for a specific commitment of financial resources for prevention services, increased program development and coordination is necessary to ensure that a minimum of five percent of the budgets of all Commonwealth agencies serving children and families is devoted to prevention services.

(10) County agencies and local communities should prepare a prevention services plan to develop, coordinate and oversee prevention services within their respective counties and local communities.

(b) Purpose.--It is the purpose of this subchapter to encourage prevention services through the creation of an office of prevention services which will develop, coordinate and oversee efforts to prevent child abuse and neglect, juvenile delinquency, juvenile dependency, school dropouts, truancy, violence and the need for out-of-home placements.

§ 6380.3. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agency.” A public or private entity, including a county agency, which provides child-care services.

Note: “Child-care services” is defined in 23 Pa.C.S. § 6303 (and applicable to the entire chapter) as follows: “Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may

be offered by public or private schools, intermediate units or area vocational-technical schools.”

Note: “County agency” is defined in 23 Pa.C.S. § 6303 (and applicable to the entire chapter) as follows: “The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.”

“Board.” The prevention services board set forth in section 6380.6 (relating to prevention services board).

“Commonwealth agency.” Any executive branch department, board, commission, authority, office or agency of the government of this Commonwealth, whether or not subject to the policy supervision of the Governor, which serves children and families.

“Coordinator.” A prevention services coordinator set forth in section 6380.7 (relating to prevention services coordinator).

“Cross-systems approach.” An effort to provide services to children and families through services or programs under the jurisdiction of more than one Commonwealth agency.

“Director.” The director of the office of prevention services created under section 6380.5 (relating to director of office of prevention services).

“Prevention service.” Any service for children and their families which is primarily designed to prevent child abuse and neglect, juvenile delinquency, juvenile dependency, school dropouts, truancy, violence and the need for out-of-home placements.

§ 6380.4. Office of prevention services.

There is hereby created an office of prevention services.

§ 6380.5. Director of office of prevention services.

(a) Appointment.--The Governor shall appoint a director of the office of prevention services, with the advice and consent of the Senate, who shall serve at the pleasure of the Governor.

(b) Powers and duties.--The director shall have the following powers and duties:

(1) To develop, coordinate and oversee existing prevention services in the Commonwealth.

(2) To determine the effectiveness and cost-effectiveness of existing prevention services.

(3) To identify best practices in prevention services, with attention to services provided by research-based programs.

(4) To develop new and effective prevention services.

(5) To identify how existing prevention services may continue.

(6) To develop improved prevention services for specific populations underserved by existing prevention programs, including, but not limited to, incarcerated parents and their children, medically fragile children, chemically-dependent parents and children, parents and children with mental illness or mental retardation, teenagers and teenage parents.

(7) To identify potential sources of funding for new and existing prevention services, including sources not presently utilized.

(8) To determine whether a minimum of five percent of the budget of each Commonwealth agency is devoted to prevention services and, if not, to suggest ways in which it can be done.

Comment: This paragraph is not intended to mandate each Commonwealth agency to segregate 5% of its budget for prevention services. Instead, it is merely a benchmark to demonstrate the importance of prevention services.

(9) To plan and coordinate cross-systems approaches to prevention services.

(10) To provide technical assistance to Commonwealth agencies and agencies within the counties and local communities to develop prevention services.

(11) To assist county agencies and local communities in preparing a prevention services plan to develop, coordinate and oversee prevention services within their respective counties and local communities.

(12) To assess demographic and other data in order to assist Commonwealth agencies and agencies within the counties and local communities in identifying areas of high need regarding prevention services.

(13) To share information regarding prevention services with coordinators, Commonwealth agencies and agencies within the counties and local communities.

(14) To accept funds for prevention services from various sources identified and pursued.

(15) To distribute block grants to counties as set forth in section 6380.9 (relating to block grants).

(16) To oversee the request for proposal process as set forth in section 6380.10 (relating to request for proposal process).

(17) To provide technical assistance and information to counties and agencies regarding block grants and the request for proposal process, to the extent practical as determined by the director.

(18) To provide technical assistance to county agencies regarding the development of a needs-based assessment, to the extent practical as determined by the director.

(19) To convene regular meetings of the board.

(20) To take such other actions as the director deems necessary for the effective administration of the office of prevention services.

(c) Administration of office.--The director shall have an adequate budget,

staff and office for the effective administration of the office of prevention services.

§ 6380.6. Prevention services board.

(a) Composition.--The director shall be assisted by a prevention services board consisting of the following individuals:

(1) The Secretary of the Department of Public Welfare, or a designee of the Secretary.

(2) The Secretary of the Department of Health, or a designee of the Secretary.

(3) The Secretary of the Department of Education, or a designee of the Secretary.

(4) The Secretary of the Department of Labor and Industry, or a designee of the Secretary.

(5) The Secretary of the Department of Community and Economic Development, or a designee of the Secretary.

(6) The Insurance Commissioner, or a designee of the Commissioner.

(7) Chair of the Pennsylvania Commission on Crime and Delinquency, or a designee of the Chair.

(8) Any other individual that the director deems necessary for the effective administration of the office of prevention services.

(b) Expenses.--The members of the board are not entitled to additional compensation for their service as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

§ 6380.7. Prevention services coordinators.

(a) Designation.--Each county shall designate a prevention services coordinator who shall be identified to the director.

(b) Powers and duties.--Each coordinator shall have the following powers and duties:

(1) To develop, coordinate and oversee existing prevention services of agencies within the coordinator's county and local communities.

(2) To determine the effectiveness and cost-effectiveness of existing local prevention services.

(3) To tailor the best practice standards for prevention services to meet the needs of the coordinator's county and local communities.

(4) To develop new and effective local prevention services.

(5) To identify how existing local prevention services may continue.

(6) To develop improved local prevention services for specific populations underserved by existing prevention programs, including, but not limited to, incarcerated parents and their children, medically fragile children, chemically-dependent parents and children, parents and children with mental illness or mental retardation, teenagers and teenage parents.

(7) To identify potential sources of funding for new and existing local prevention services, including sources not presently utilized.

(8) To determine whether a minimum of five percent of the budget of each local governmental agency serving children and families is devoted to prevention services and, if not, to suggest ways in which it can be done.

(9) To plan and coordinate cross-systems approaches to local prevention services.

(10) To prepare a prevention services plan to develop, coordinate and oversee prevention services within the coordinator's county and local communities.

(11) To assess county and local demographic and other data in order to assist local agencies in identifying areas of high need regarding prevention services.

(12) To share information with the coordinator's county and local communities, local agencies, the director and the board regarding local prevention services and needs.

(13) To accept funds for prevention services from various sources identified and pursued.

(14) To take such other actions as the coordinator deems necessary to carry out the coordinator's duties.

(c) Information.--A coordinator shall provide necessary information to the director for the purposes of preparing the annual report under section 6380.11 (relating to annual report).

§ 6380.8. Cooperation.

(a) Coordinators.--Each coordinator shall cooperate with the director and board to the fullest extent possible.

(b) Commonwealth agencies.--Commonwealth agencies shall cooperate with and provide assistance to the director and board without financial reimbursement.

(c) Agencies.--All agencies within the counties and local communities shall cooperate with the director, the board and their respective coordinator to the fullest extent possible in providing information.

§ 6380.9. Block grants.

(a) Source.--Block grant funds shall be derived from sources identified and pursued by the director and from funds appropriated by the General Assembly from time to time.

Comment: It is intended that funding sources include untapped and under-tapped federal monies and any funds from private foundations.

(b) Distribution.--The director shall distribute block grants for prevention services to each county as provided in this section.

(c) Amount.--The amount of each county's block grant shall be based on the population of the county and county demographic information deemed relevant by the director, which may include the following:

(1) The county poverty rate and local incidence of homelessness.

(2) The incidence of high-risk behaviors for children and families in the county.

(3) The availability of existing prevention services in the county and the need for additional prevention services in the county.

(4) The number of children served by the county agency.

(5) Indicators generally associated with child well-being in the county, including the following:

(i) The percentage of low birth-weight babies

(ii) The infant mortality rate.

(iii) The child death rate.

(iv) The rate of teen deaths by accident, homicide and suicide.

(v) The teen birth rate.

(vi) The percentage of teens who are high school dropouts.

(vii) The percentage of teens not attending school and not working.

(viii) The percentage of children living in families where no parent has full-time, year-round employment.

(ix) The percentage of children living in poverty.

(x) The percentage of families with children headed by a single parent.

(d) Adjustment.--The director may adjust the amount of block grant funds distributed to a county based on the following:

(1) The availability of funds.

(2) A change in the demographic factors of a county.

(3) The overall effectiveness and cost effectiveness of prevention services in a county.

(4) Any other factor that the director deems reasonable and necessary.

(e) County needs assessment.--The director shall determine what percentage of a county's block grant may be used for the county to assess its needs in developing and implementing prevention services.

§ 6380.10. Request for proposal process.

(a) County disbursement.--A county shall disburse the block grant funds that it has received under section 6380.9 (relating to block grants) through a request for proposal process as provided in this section. A county shall discharge its duties impartially so as to assure fair competitive access to block grant funds for prevention services by responsible agencies that conduct themselves in a manner that fosters public confidence in the integrity of the disbursement process.

(b) Application.--Any agency or other entity that provides prevention services may submit a proposal to the county for block grant funds to develop and implement prevention services.

Comment: It is intended that private agencies, public agencies and public/private partnerships could apply for funds through the request for proposal process. In addition, if the county itself has developed prevention services, the county may fund such services with block grant money. Although a county

controls the distribution of its block grant funds and may at times be in “competition” for block grant funds with, for example, private service providers, the county will still be accountable for its decision to fund its own prevention services since tax dollars are involved and the county will want to fund the most effective, cost-efficient program available so as not to jeopardize future block grant funds.

(c) Characteristics of prevention services.--Prevention services that are considered through the request for proposal process shall, to the fullest extent possible, be evidence-based, replicable and innovative, consistently achieve positive outcomes and yield results that are consistent with the program design.

Comment: It is intended that an agency or other entity will be given broad discretion to develop and implement prevention services, with maximum flexibility to achieve outcome-based standards and without strict procedural mandates.

(d) Administrative costs.--A request for proposal may contain a request for administrative costs that reflect the anticipated operating expenses associated with the development and implementation of prevention services.

Comment: There is no cap to the percentage designated for administrative costs. A county would need to determine what is reasonable on a case-by-case basis. The provision for administrative costs is intended to be flexible, but should not encourage duplicative or wasteful practices.

(e) General standards of ethical conduct.--Any attempt on the part of an agent of the county to realize personal gain through the disbursement process or engage in conduct inconsistent with the proper discharge of the agent’s duties is a breach of the public trust. An agent must avoid any conflict of interest or improper use of information regarding the disbursement or request for proposal process. If any person has reason to believe that any breach of standards has occurred, that person shall report all relevant facts to the State Ethics Commission and the Attorney General for any appropriate action.

§ 6380.11. Annual report.

The director shall submit to the Governor and the General Assembly an annual report on the office of prevention services. Such report shall include:

(1) A review of the prevention services undertaken by Commonwealth agencies in the preceding year, including a statement of the amount of funds expended for such services and the number of children served.

(2) An evaluation of the effectiveness of prevention services by agencies and recommendations regarding the future provision of similar or additional prevention services.

(3) An evaluation of the need for prevention services in the Commonwealth, including an assessment of such need at the county and local community level.

(4) A review of the distribution of block grants to the counties.

(5) A review of the county disbursement of block grant funds through the request for proposal process.

(6) The identification of current and possible future funding sources for prevention services.

(7) Recommendations for legislation or changes in rules or policies, if any.

(8) Any other information which the director deems appropriate.

TRANSITIONAL LANGUAGE: This act shall take effect in six months.

INDEPENDENT LIVING PROGRAMS

The Subcommittee on Options Outside Placement discussed how to improve the transition of youth to independent living. In its discussions, the subcommittee considered the following.

- (1) The barriers that youth face with respect to life skills development, housing and employment
- (2) The characteristics of successful independent living programs
- (3) Challenges to youth and those assisting youth in the transition from foster care into independent living

Barriers

The subcommittee highlighted the following barriers that youth face with respect to life skills development, housing and employment.

- (1) Discouraging youth from coming to court for hearings
- (2) Disparity across the Commonwealth
- (3) Emphasis on “crisis mode”
- (4) Lack of a comprehensive approach when structuring life skills development programs
- (5) Lack of adult mentors and role models
- (6) Lack of advance planning
- (7) Lack of emotional and financial supports
- (8) Lack of incentives for foster family members to remain a part of the youth’s life, particularly if the youth has mental health problems
- (9) Lack of programs and services to help youth positively handle free time and provide positive structure for their life
- (10) Lack of proper life skills planning (e.g., driver’s licenses)
- (11) Lack of services for youth after they turn 18 (e.g., youth who reach age 18 may return to their parents who caused them to be placed in the children and youth system in the first place simply because of their attachment to them and lack of knowledge of other resources and services)
- (12) Lack of services that discourage youth from engaging in behavior that may implicate the criminal justice system
- (13) Lack of wraparound services when youth turn age 21, particularly when the youth have mental or physical disabilities

- (14) Limited funding for independent living programs (e.g., over the last 10 years, annual dollars for independent living programs under Title IV-E of the Social Security Act have not increased)
- (15) Medical services covered by Early and Periodic Screening, Diagnosis and Treatment (EPSDT) end at age 21, which may result in 21-year-olds ending up in nursing homes because of lack of coverage or reimbursement
- (16) Movement of cases into the mental health arena, many times for the purpose of more easily tapping into federal dollars
- (17) Stereotyping and labeling youth
- (18) Waiting lists for Job Corps openings
- (19) Youth are not adequately informed about their options
- (20) Youth are not involved enough in their own case plans
- (21) Youth become “structure-dependent”
- (22) Youth who require mental health treatment are often cut off from services when they reach age 18

Characteristics of Successful Programs

The subcommittee reviewed the characteristics of successful independent living programs and discussed how to incorporate them into a coherent, manageable framework for Pennsylvania.¹⁸³ In order to fully prepare youth for a successful transition out of foster care, the establishment of the following criteria is vital.

- (1) A youth development philosophy
- (2) A clearly defined life skills instruction component
- (3) Educational supports aimed at helping youth achieve educational goals
- (4) An employment component
- (5) A component that helps youth establish community linkages
- (6) A supervised independent living component
- (7) Health services that prepare youth to manage their own medical, dental and mental health needs
- (8) Preparation for adulthood counseling activities
- (9) Youth development activities
- (10) Comprehensive aftercare services
 - (a) Temporary medical coverage

¹⁸³The information is detailed in Alfred M. Sheehy, Jr. et al., *Promising Practices: Supporting Transition of Youth Served by the Foster Care System* (working draft series, undated). The information itself is the result of collaboration principally between the National Child Welfare Resource Center for Organizational Improvement located in the Institute for Child and Family Policy of the Edmund S. Muskie School of Public Service at the University of Southern Maine in Portland, Maine and the National Resource Center for Youth Services located at the University of Oklahoma in Tulsa, Oklahoma. The two resource centers are partners under a single grant from the Annie E. Casey Foundation.

- (b) Temporary financial assistance
 - (c) Temporary housing
 - (d) Help in establishing and maintaining living arrangements
 - (e) Peer support
 - (f) Advocacy
 - (g) Crisis counseling
 - (h) Information and referral
- (11) An ongoing training component for program staff
 - (12) An ongoing program evaluation component

Challenges

Five key areas present challenges to youth and those assisting youth in the transition from foster care into independent living.

Early discharge, where some youth will leave care before they are emotionally, educationally or financially ready. Of particular note is that Congress dealt with the issue of early discharge in the Foster Care Independence Act of 1999, Public Law 106-109 (the “Chafee Act”), which stipulated that former foster care youth between the age of 18 and 21 years who have left the child welfare system are now eligible to receive independent living and other support services. In addition, states may use up to 30% of their allocation of federal funds to provide room and board for youth up to age 21 years who have aged out of foster care. Theoretically, the ability to use such funds should result in an expansion of services to youth in the age group of 18 to 21 years. Knowledge and understanding of a core set of life skills, coupled with opportunities to practice skills in real-world environments, lead to success.

Housing, which implicates the potential problems of cost, the willingness of landlords to rent to young tenants, and the availability of suitable housing. Without the ability to find and maintain suitable housing, other skills that youth have acquired may become compromised. With respect to housing issues, a continuum should exist for the youth to experience informal learning, formal learning, supervised practice, and then finally self-sufficiency.

Health and Medical Care, which most likely encompasses insurance through the Medicaid program when the youth is in care. The transition from state care generally means that eligibility for Medicaid coverage is lost, especially if the youth is employed on a full-time basis. Most youth leaving state custody and entering the workforce are employed in jobs that neither provide health insurance nor pay a wage sufficient to allow the youth to be able to buy health insurance. The Chafee Act establishes a new Medicaid eligibility group for children who are in foster care under

the responsibility of the state on their 18th birthday. States can provide eligibility for all these youth until they reach the age of 21 years, choose not to apply an income or resource test for these youth, or only make those youth eligible who were furnished foster care maintenance payments or independent living services under a program funded under Title IV-E of the Social Security Act.

Education, such that more educational opportunities should be made available for youth, including extended opportunities for youth to finish high school or Graduate Equivalency Diploma (GED) programs or begin post-secondary educational or vocational programs. Specific services may contribute to the youth's positive educational outcomes, including the following.

- (1) Educational liaisons (consistent contact person for managing educational information) and access to educational resources
- (2) Educational tutors and coaches
- (3) College preparatory activities
- (4) School-to-work programs
- (5) Training of school personnel regarding foster care issues

Employment, which implicates four skill areas essential to employability.

- (1) Basic education skills: reading, writing, speaking and math
- (2) Pre-employment skills: job searching and interviewing
- (3) Work maturity skills: work habits and behavior
- (4) Marketable skills: knowledge and trade skills

In the area of employment, the following services may be helpful.

- (1) Opportunities for career exploration, such as career days, job shadowing, job mentors, and internships
- (2) Development of an educational or a career plan, including information on the youth's interests, strengths in school, vision for career and personal life and opportunities for career and work experience
- (3) Opportunities for career-related work experience
- (4) Connection of youth to career role models, who serve as advisors, mentors, coaches, and advocates and who offer wisdom, encouragement, praise and support
- (5) Establishment of partnerships with local educational institutions, industries and employment programs
- (6) Opportunities for career exploration, as discussed previously

Additional barriers cited by studies include resource availability, federal eligibility requirements, transportation, program coordination, staff turnover,

training, youth recruitment, collaboration within the community, cultural competency and information technology issues.

Subcommittee Suggestions

The subcommittee discussed some possible solutions regarding the successful transition of youth to independent living and the barriers that youth face with respect to life skills development, housing and employment. However, the advisory committee did not discuss or reach consensus on these suggestions.

Case Planning

- (1) Begin concurrent planning for independent living sooner (e.g., at age 12 or 13)
- (2) Involve youth more in developing their own case plans
- (3) Provide incentives for youth to attend review hearings and case planning meetings
- (4) Hire more youth advocates and support staff to assist in the case planning process
- (5) Involve the Departments of Public Welfare (including mental health/mental retardation services, children and youth services and county assistance services), Education and Labor and Industry more in the independent living planning process

Financial Considerations

- (1) Provide stipends for youth participating in independent living programs
- (2) Seek additional federal funding through the waiver process
- (3) Provide additional funding for foster care providers
- (4) Provide additional grants for youth trying to live independently
- (5) Provide educational grants to reduce the burden of student loans

Changing Attitudes

- (1) Recognize that it involves a great deal of preparation and patience to transition youth into living independently
- (2) Change the court mentality that youth should not attend their review hearings because they will miss school
- (3) Recognize that the housing costs for youth living independently are high, but are comparable to the expenses associated with group housing and residential treatment facilities

Preparing Youth for Independent Living and Fostering Responsibility

- (1) Provide additional opportunities if youth cannot successfully complete an independent living program (i.e., eliminate the “one strike and you’re out” problem)

- (2) Appeal to the business community to be mentors and advisors
- (3) Support transition projects for youth in foster care
- (4) Focus more on outcomes to assure that youth have vocational training, life skills training and education needs met before they leave the care of children and youth services
- (5) Encourage character-building programs in middle schools and begin early employment skills training with state resources
- (6) Expand independent living programs to youth who are not involved with the children and youth social service delivery system, as a prevention tool

Coordination of Services and Effective Management

- (1) Avoid “cookie-cutter” approaches and emphasize flexibility
- (2) Mandate cross-systems, interdepartmental coordination of services
- (3) Improve the dissemination of information regarding independent living programs and other transitional programs
- (4) Improve home- and community-based nursing care, which is less expensive than institutionalization and nursing home care
- (5) Provide criteria for each of the following levels of care: foster care, group homes, cluster housing, independent housing and aftercare services
- (6) Require children and youth services to have formal agreements regarding employment, education and community resources, to improve service coordination
- (7) Improve the transition of youth to adult agencies

Support and Interaction

- (1) Improve interaction with birth families (e.g., youth assistance for independent living)
- (2) Support foster parents in long-term involvement with youth and improve respite opportunities for them
- (3) Provide support groups for foster parents to assist with youth transition

The subcommittee noted that although independent living programs aid in preventing criminal activity and multi-generational cycles of abuse and neglect, they are only available to children within the children and youth services delivery system. The members agreed that outcomes should be emphasized instead of performance standards and that the Commonwealth should advance money directly for children and youth services instead of relying on a reimbursement system. The members discussed the need to specify who should be responsible for transition planning and implementation, both for operational purposes and accountability purposes. It was noted that caseworkers should be able to focus on more and better social work.

A design system with the following characteristics was also suggested.

- (1) Provide funds to foster care providers so that they may create or improve their own transitional housing and independent living programs and provide a full continuum of services aimed at youth independence with little or no disruption in needed services
- (2) Develop criteria for each level of care and implement agreements among youth, children and youth services and service providers for group home placements, foster care opportunities, transitional housing, independent living services and aftercare services
- (3) Implement and collaborate programs between social services, vocational development, behavioral health, health care and local employers
- (4) Involve youth in the design of their case plan by having them select from available choices such things as vocational training, educational programs, housing opportunities, employment opportunities and community volunteer programs

MEDICALLY FRAGILE CHILDREN

The Subcommittee on Options Outside Placement believed that all children, regardless of their disability or seriousness of their health condition, should have the opportunity to grow up in a safe, healthy, loving and lasting family. Parents who lack the skills or resources to parent their child should have the opportunity to learn, attain the necessary resources for their child to live at home and generally be supported to become self-sufficient and interdependent in their community.

One important facet of the class of medically fragile children concerns newborns. Today with modern technology, infants born prematurely have a greater chance of survival, but their continued survival is dependent on a multitude of resources and an array of services that support the child and parents. One of the most critical periods of time for the family is the transition of the child from the hospital to the home. Discharge planning is critical, to avoid the situation where children go home to a family that is unprepared, unable to access necessary resources and possibly challenged by other social and environmental factors, including domestic violence, inadequate housing and homelessness, extreme poverty, poor nutrition, lack of transportation alternatives, inadequate health care, lack of social supports and living in a high crime neighborhood. In many cases, the child is more susceptible to abuse and neglect, which may result in the child's placement into medical foster family care, a sub-acute hospital setting or institutional care, all of which are very costly alternatives, both financially and psychologically.

Early, intensive placement prevention efforts through public, private and community organizations are important and worthy of public funding. Providing an avenue for organizations to provide prevention services not only would save significant state dollars in the long run but would ensure that Pennsylvania's children have the best chance of growing up to be self-reliant, productive, caring adults.

In order to examine the scope and mechanics of services to medically fragile children, the subcommittee gathered information from Every Child, Inc. of Pittsburgh, which is one of a number of successful initiatives statewide that provide medically-related wraparound services for infants who are born medically fragile and their parents who are not able to appropriately and effectively care for them. Recognizing that the consequence of not providing support to parents may be neglect, abuse, placement and even death of a child, Every Child, Inc. provides services that are family-centered, coordinated, community-based and culturally

competent. Intensive interventions are initiated as soon as the child is identified with a special health care need. This facilitates timely discharge to a prepared family and safe home environment, thereby improving the efficacy of medical interventions. Through the coordination of a full range of medical services, ancillary services, educational services, social services, behavioral health services and informal resources, Every Child, Inc. monitors, maintains and improves the functioning of children with special health care needs. Services may be delivered in the home, community, hospital or other human service settings.

Every Child, Inc. targets children with special health needs, from newborns to children who are 18 years of age, who have the following characteristics.

- (1) Are at risk for chronic physical, developmental, behavioral and emotional conditions
- (2) Require health services beyond what is generally required by children, including dependence on medical technology, which is necessary because of premature birth, and transplantation
- (3) Have both physical and psychosocial challenges
- (4) Have acute or potentially disabling conditions
- (5) Have or are at risk for spinal bifida, hemophilia, other genetic disorders and health-related educational and behavioral problems
- (6) Have parents who lack resources and may be experiencing the effects of poverty, unemployment, isolation or substandard housing and may themselves have physical, behavioral health or cognitive difficulties
- (7) Have parents who request additional support, child-specific training and assistance with resources in order to make the decision to bring their child home
- (8) Reside in Western Pennsylvania

The average length of the services that Every Child, Inc. provides is four to eight months. During the first 12 weeks, services occur eight to ten hours per week; for the next 12 weeks, six to eight hours per week. After that, services are provided on an as-needed basis. The staff typically remains involved with a family for four to seven months. The costs of the medically-related wraparound services range from \$6,000 to \$8,000 per child.

Every Child, Inc. solicits funding through various foundations and through state grants, such as from the Pennsylvania Developmental Disabilities Planning Council and the Children's Trust Fund. With a three-year grant from the Children's Trust Fund, the agency was able to help 53 infants with very complex medical issues to be brought home from the hospital, thereby avoiding placements with the county children and youth agency. Over the last 12 years, Every Child, Inc. has provided services for over 500 children, successfully transitioning children into their own homes over 95% of the time. Since the medically-related

wraparound services began in 1999, the agency has successfully achieved permanency for 127 children with special needs.

The description of the services offered by Every Child, Inc. is provided for informational purposes only. It does not reflect the endorsement of the subcommittee or advisory committee.

SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP

On November 19, 1997, the Adoption and Safe Families Act (ASFA) was signed into law, amending Titles IV-B and IV-E of the Social Security Act. ASFA established the goals of safety, permanency and well-being for all children served by the child welfare system. In December 1998, Pennsylvania enacted its own statute implementing ASFA (Act 126 of 1998). A new permanency option was created for children in the legal custody of a county children and youth agency: permanent legal custodianship, available to children who cannot return home and for whom the court has determined that adoption is not an appropriate goal. A permanent legal custodian receives legal custody of a child by an order of the Juvenile Court, enabling the custodian to make decisions regarding the child and give consent for a variety of services on behalf of the child. The Department of Public Welfare has begun to implement a subsidized permanent legal custodianship (SPLC) program in Pennsylvania,¹⁸⁴ making Pennsylvania the 20th state to have implemented such a program.

The SPLC program has the following goals.

- (1) Achieve permanency for children who would otherwise remain in the legal custody of the county children and youth agency
- (2) Provide necessary financial support to families who assume legal custody of a child to enable them to provide adequate care for the child
- (3) Enable county children and youth agencies to use their resources more efficiently
- (4) Reduce the need for court and county children and youth agency involvement in situations when the child is in a safe and permanent setting and the child's needs are being met

Subsidies and Eligibility

The SPLC program can be used to assist formal kinship caregivers as well as children who are living with unrelated foster parents when those foster parents are willing to provide a permanent home for the child. However, the SPLC program is not intended for use when either return home or adoption is a viable permanency option. The Juvenile Court must establish permanent legal

¹⁸⁴Pennsylvania Department of Public Welfare, Children, Youth and Families Bulletin "Interim Policies and Procedures for Subsidized Permanent Legal Custodianship" (June 13, 2001).

custodianship with the specific custodian family as the child's permanency goal; a court order must then name the family as the permanent legal custodians of the child. An SPLC agreement must be signed by the county children and youth agency director or designee and the custodian family, setting forth the terms of the subsidy, including the dollar amount, payment schedule and effective date of the agreement. The amount of the subsidy must be based on the child's needs and the circumstances of the custodian family. No means test may be applied to the custodian family as a basis for determining eligibility for the subsidy or the amount of the subsidy. However, the amount of the subsidy may not exceed the amount that the county children and youth agency would have spent to provide appropriate care and maintenance for the child had the child remained in agency custody. Eligibility is re-determined annually. Adjustments may be made in the subsidy at any time at the request of the county or custodian family.

A child is eligible for SPLC when all the following conditions have been met.

- (1) The child is adjudicated dependent and placed in the legal custody of the county children and youth agency.
- (2) The child has been in the legal custody of the county children and youth agency for at least six months prior to the establishment of the permanent legal custodianship arrangement.
- (3) The child has been living with the identified permanent legal custodian for at least six months immediately preceding the establishment of the permanent legal custodianship arrangement, although this six-month period and that noted under (2) above may run concurrently.
- (4) The child's permanency goal is permanent legal custodianship.
- (5) The court has ordered that the child be placed in the permanent legal custodianship of the specific family, and the goals of return home and adoption are inappropriate for the child.

Of particular note is that since the parental rights of the child's parents have not been terminated and permanent legal custodianship status does not rise to the level of adoption, the custodian family's income is not counted when determining the child's eligibility for Medical Assistance benefits. In addition, the subsidy payment is not considered income to the child and, therefore, is not counted when determining such eligibility.

Furthermore, the child's parents remain responsible for child support if support has been ordered. The potential custodian must meet the requirements related to being a foster parent, and an updated family profile (similar to that used in adoptions) is needed in these cases.

County Costs

Subsidies paid under the SPLC program are not eligible for Title IV-E or Temporary Assistance for Needy Families (TANF) reimbursement. The match rate for the subsidy is 80% state and 20% county funds, the same rate as that paid in the state adoption subsidy program. The use of the SPLC program is part of the needs-based budgeting process, meaning that when a county plans to use the SPLC option, the plan and budget submission must include a description of how the county will implement SPLC in the county and the resources necessary to implement the service.¹⁸⁵

It should be noted that the SPLC program does impose a financial hardship on a county: if an eligible child was not a part of the SPLC program, the child may likely have qualified for other services, the costs of which would be reimbursed to the county through Title IV-E or TANF dollars. The county would typically be reimbursed 90% to 95% of its costs. Therefore, the county may spend more of its own financial resources using the SPLC option.

Nevertheless, the SPLC program does save money. If, for example, the child would remain in foster care, there are additional administrative costs, such as the cost of caseworkers and services for the child, which the county must incorporate into its budget. In addition, certain placements, such as group homes, are much more expensive than other placement options. In any event, ongoing funding for the SPLC program is a potential state statutory matter.

¹⁸⁵See the Children, Youth and Families Bulletin “Interim Policies and Procedures for Subsidized Permanent Legal Custodianship,” for more information regarding the SPLC program.

SERVICES FOR INCARCERATED PARENTS

The Subcommittee on Options Outside Placement discussed the effect of incarceration on children and youth services and how it impacts on the issue of options outside placement.

Effect on Families

The subcommittee recognized that incarceration, even for a short amount of time, poses serious risks for parents, who may face the imminent loss of parental rights and all contact with their child. Conviction of a crime, however, does not mean that the parent cannot foster a loving and committed relationship with the child. Nevertheless, the parent must work diligently to preserve parental rights, against difficult barriers, both while in prison and after release.¹⁸⁶

The issue of incarceration and its effect on the status of the family is a growing problem worthy of serious attention, because of the increasing rates of incarceration and the trend to impose longer sentences. The statistics are overwhelming: approximately 1.5 million children in the United States - 2.1% of all children under 18 years of age - have parents in state or federal prison. This number, however, does not include children whose parents are in local jails. In 1999, the number of parents incarcerated in state and federal prisons was estimated at 721,500. The number swells to approximately five million when parents on parole and probation are considered. Over ten million children have parents who were imprisoned at some point in their children's lives.¹⁸⁷ In addition, a majority of prisoners are parents of minor children, and a large percentage of incarcerated parents had custody of their children before going into prison. A Department of Justice study found the following, based on 1997 data.¹⁸⁸

- (1) 65.3% of women in state prison had children under 18 years of age
- (2) 58.8% of women in federal prison had children under 18 years of age
- (3) 54.7% of men in state prison had children under 18 years of age

¹⁸⁶A detailed discussion of incarceration and the effect on the family structure may be found in Peter D. Schneider, "Criminal Convictions, Incarceration, and Child Welfare: Ex-Offenders Lose Their Children" (Chapter 4) *Every Door Closed: Barriers Facing Parents with Criminal Records* 53-83 (2002).

¹⁸⁷Amy E. Hirsch, "Introduction," *Every Door Closed: Barriers Facing Parents with Criminal Records* 7 (2002).

¹⁸⁸Schneider, *supra* note 186, at 54.

- (4) 63.4% of men in federal prison had children under 18 years of age
- (5) 64.3% of mothers in state prison who had minor children had lived with their children at the time that they entered prison
- (6) 84.0% of mothers in federal prison who had minor children had lived with their children at the time that they entered prison
- (7) 43.8% of fathers in state prison who had minor children had lived with their children at the time that they entered prison
- (8) 55.2% of fathers in federal prison who had minor children had lived with their children at the time that they entered prison

In addition, over 85% of incarcerated mothers intend to resume care of their children after their release from prison.¹⁸⁹

Reunification Services

Although under ASFA states are required to make reasonable efforts to preserve or reunify the family, states are less inclined to make reasonable efforts when the parent is incarcerated. In fact, only a few states expressly provide for specific reunification services for incarcerated parents. California and New York, however, do provide models for child welfare assistance for incarcerated parents. The following sets forth the provisions from these two states.

California - Cal. Welf. & Inst. Code Section 361.5(e)(1)

If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the applicable time limitation imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

- (A) Maintaining contact between the parent and child through collect telephone calls.
- (B) Transportation services, where appropriate.
- (C) Visitation services, where appropriate.
- (D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

¹⁸⁹*Id.*

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

New York - N.Y. Soc. Serv. Law Section 384-b(7)(f)(5)

[Diligent efforts include] maintaining suitable arrangements with a correctional facility and other appropriate persons for an incarcerated parent to visit the child within the correctional facility, if such visiting is in the best interests of the child. When no visitation between child and incarcerated parent has been arranged for or permitted by the authorized agency because such visitation is determined not to be in the best interest of the child, then no permanent neglect proceeding under this subdivision shall be initiated on the basis of the lack of such visitation. Such arrangements shall include, but shall not be limited to, the transportation of the child to the correctional facility, and providing or suggesting social or rehabilitative services to resolve or correct the problems other than incarceration itself which impair the incarcerated parent's ability to maintain contact with the child.

The Role of the Children and Youth Services Delivery System

Incarceration hinders parents who want to be involved in their children's lives from adequately participating in their children's cases, maintaining effective contact with their children and complying with the objectives set forth in their family service plan. State law specifies that incarceration does not relieve a parent of parental responsibilities. The failure to fulfill such responsibilities may lead to the termination of parental rights. Consequently, additional assistance from child welfare agencies may help incarcerated parents to reach achievable goals. Therefore, the subcommittee focused on the following key components to assist incarcerated parents in maintaining their relationship with their children when such assistance is in the best interests of the children.

- (1) Contact and visitation between the parent and child during the parent's incarceration are critical.
- (2) Relative placements and informal kinship arrangements can be beneficial for both the child and incarcerated parent.
- (3) Additional services to incarcerated parents can overcome obstacles and preserve the parent-child relationship where appropriate.

Specific Programs and Services

The subcommittee then reviewed several specific programs regarding incarcerated parents.

New York. The Bedford Hills Correctional Facility Children’s Center in New York offers a comprehensive program for incarcerated mothers and their children and is an example of service implementation that can prevent future child placements. The center, which is located at a maximum security prison for women, has a playroom for visiting children, a parenting center, a nursery where mothers may keep their children for up to one year, a community-based shelter for battered women and their children and nearby foster homes reserved for the children of inmates. Mothers receive diapers, strollers, baby food, formula and health care for their infants. They must also attend parenting classes. Other programs are in place for mothers with older children. For example, during the summer months, the community of Bedford Hills hosts children of incarcerated mothers for a week during which they may see their mothers every day. During the school year, community members host the children one Saturday night each month.

Minnesota. In Minnesota, one women’s prison has a parenting unit where incarcerated mothers may spend several nights each month with their young children and where teenage children may spend one Saturday night each month with their mother and enjoy family activities such as basketball, crafts and lunch.

Ohio. In Ohio, a “camp” is offered so that incarcerated mothers can spend time with their children.

Subcommittee Suggestions

The Subcommittee on Options Outside Placement discussed possible improvements to cases that involve the incarceration of a parent and addressed specific recommendations designed to benefit the family unit. The recommendations implicate placement services, adoption law, children and youth system regulations and procedural matters involving the court. The following list summarizes the subcommittee’s suggestions regarding services for incarcerated parents which were not discussed by the advisory committee.

- (1) Encourage relative placements as much as possible when a parent is incarcerated
- (2) Apply deadlines under the Adoption and Safe Families Act with flexibility, as permitted by the federal act, so as not to terminate parental rights of an incarcerated parent if the continuation of the parent-child relationship is in the best interests of the child
- (3) Better facilitate parent-child visitation and contact when a parent is incarcerated by

- (a) Requiring children and youth services to transport the child to prison for visits unless the visits are found to be contrary to the child's interests
 - (b) Requiring children and youth services and foster care agencies to accept collect calls from incarcerated parents on a reasonable basis and reimburse foster parents for such calls
 - (c) Requiring children and youth services to facilitate telephone contact between the parent and child unless the contact is found to be contrary to the child's interests
- (4) Improve and initiate prison programs, which are designed to provide information to incarcerated parents and allow meaningful contact between the incarcerated parent and the child, including
- (a) Parenting programs
 - (b) Nursery services for infants
 - (c) Weekend or other extended, comfortable visitation arrangements
- (5) Encourage children and youth services to develop special foster care placements in communities near prisons so that in appropriate cases children may be placed near their incarcerated parent, thereby facilitating parent-child contact and visitation
- (6) Provide reunification services to incarcerated parents at the onset of their incarceration, in order to enable them to make progress on their family service plan objectives by the time of their release, including
- (a) Parenting and life skills education
 - (b) Individual and group therapy
 - (c) Family therapy in conjunction with visits
 - (d) Drug and alcohol treatment
 - (e) General Equivalency Diploma (GED) and other educational and vocational training
- (7) Reduce the obstacles faced by ex-offenders which affect family functioning by encouraging child welfare agencies to better assist with reunification services and remain flexible in offering opportunities for successful reunification
- (8) Assure that incarcerated parents are able to attend court hearings, particularly those involving changes in the child's placement and requests for the termination of parental rights, by
- (a) Providing reasonable and timely transportation
 - (b) Providing alternatives, if adequate provisions cannot be made for parents to attend court hearing, with such alternatives including video conferencing (which is no longer technically difficult) and, as a last resort, telephone conferencing

- (9) Assure that children and youth services afford incarcerated parents the opportunity to attend or otherwise participate in family service plan meetings and other critical case planning meetings by
 - (a) Providing reasonable and timely transportation
 - (b) Providing alternatives, if adequate provisions cannot be made for parents to attend the meetings, with such alternatives including video conferencing and, as a last resort, telephone conferencing

- (10) Require children and youth services to make efforts to locate and remain in touch with incarcerated parents and provide them with whatever written information on the case that would be provided to a non-incarcerated parent

- (11) Provide legal counsel for incarcerated parents whenever there is a pending disposition of a children and youth matter

- (12) Provide programs for incarcerated parents - both mothers and fathers - similar to those previously described in the states of New York, Minnesota and Ohio

FAITH-BASED INSTITUTIONS

The Subcommittee on Options Outside Placement noted the importance of faith-based institutions in developing and implementing prevention programs. Innovative programs have taken hold across the nation, in cities as diverse as Baltimore, Boston, Indianapolis, Los Angeles, Philadelphia and Washington, D.C. Government agencies are lending both formal and informal support to faith-based institutions in order to help high-risk youth. In Boston, for example, the Ten Points Coalition has achieved great success. A group of congregations that were organized in 1992 to respond to the city's youth violence, the coalition includes partnerships with the criminal justice system, law enforcement community and social service agencies. As a result of the partnerships, there has been a substantial reduction in youth crime and a subsequent increase in attention to other strategies for youth development. Other cities may focus on not only crime and violence but drug use, poor education and access to meaningful employment.

With technical assistance and support from the state, faith-based institutions, like the other specific programs mentioned previously, can serve a very useful purpose in preventing placements and reducing the risk factors leading to placement. Their importance and potential should not be underestimated.

Faith-based institutions, however, do face significant, but not crippling, hurdles in developing and implementing programs, such as the following.

- (1) Difficulty in prioritizing and meeting multiple community needs
- (2) A general lack of knowledge about foundations and how they operate
- (3) A general lack of knowledge on the part of foundations regarding the work of faith-based institutions
- (4) A lack of a strategic plan to target at-risk youth
- (5) A lack of collaboration with other agencies in the community
- (6) A lack of connections to available funding sources and to existing private and philanthropic funding
- (7) A lack of staff capacity to secure public funds and lack of an organizational structure to comply with governmental regulations for service delivery
- (8) Little experience with data collection, research, outcomes measurement and program evaluation
- (9) A need for increased training and support of volunteers

- (10) Theological and philosophical reasons for not wanting to receive public funding, such as the rigorous accountability standards and a perceived threat of government control of the programs

The subcommittee acknowledged that any proposed recommendation regarding faith-based institutions should address these obstacles.

SERVICES RELATING TO ADOPTION

The Subcommittee on Options Outside Placement reviewed the importance of services after a child has been placed for adoption and post-adoption services, using the report titled *Adoption Act: Proposed Revision*¹⁹⁰ as a framework. The recommendations set forth in this report are the basis for Senate Bill 859 of 2001 (Printer's No. 988) and House Bill 1471 of 2001 (Printer's No. 1775). Section 2719 of the proposed statutory language sets forth post-placement services that must be offered to a child who is in the custody of a county agency and available for adoption, prior to the adoption of the child. Section 2723 of the proposed statutory language sets forth post-adoption services that must be offered if a child was in the custody of a county agency when the child was adopted.

The subcommittee agreed that the Pennsylvania Department of Public Welfare should provide post-placement services for children who are in the custody of a county agency and available for adoption and post-adoption services for children who were in the custody of a county agency when adopted. The post-placement services to be offered prior to the adoption of the child include, but are not be limited to, counseling, education regarding adoption, support groups, respite care, behavioral health care and services received by the child when the child was in foster care. The post-adoption services include all the post-placement services, with the addition of search and reunion services. The subcommittee agreed that these services would assist in permanency planning for the child.

The advisory committee did not discuss or reach consensus on the specific recommendations regarding services after a child has been placed for adoption and post-adoption services.

¹⁹⁰Joint State Government Commission, *Adoption Act: Proposed Revision* (April 2001).

CROSS-SYSTEMS COORDINATION

Although each of the four subcommittees of the advisory committee identified a need for better coordination, communication and cooperation between the various systems that serve children and families, the Subcommittee on Structural and Systems Issues focused on systemic issues relating to a cross-systems approach to improve the delivery of services to children and families. As envisioned, the cross-systems approach would consist of an effort to provide coordinated services and programs set forth in the Child Protective Services Act (23 Pa.C.S. Chapter 63) and the Juvenile Act (42 Pa.C.S. Chapter 63) to children and families when such services or programs are under the jurisdiction of more than one executive branch department or agency.

Throughout its deliberations, the subcommittee engaged in many discussions to identify the problems with the children and youth services delivery system as it currently exists and to determine the components of an ideal system. It noted several specific areas of concern regarding a cross-systems approach to service delivery in Pennsylvania: coordination of services and information, continuity and consistency in service planning and delivery, community awareness and funding.

Coordination of Services and Information

The subcommittee noted that the child welfare system is only one part of a much broader system of supports, all of which seem to operate independently. These supports include Temporary Assistance for Needy Families (TANF), job training and employment, housing, health insurance, education, behavioral health, counseling, daycare and drug and alcohol treatment and prevention. The supports also encompass community collaboratives and faith-based institutions. In addition, the subcommittee identified an absence of effective communication and coordination between these supports and the judicial system - the system that possesses the ultimate authority in matters affecting the welfare of children and their families.

The subcommittee summarized the following additional problems with the children and youth services delivery system.

- (1) Services are often reactionary responses to systemic crises or categorical funding streams, with little planning to promote the

implementation of best practices and minimal consideration of the individual needs of children and families.

- (2) Too often, conflicting goals, outcomes and service restrictions exist, resulting from funding and regulatory mandates, accreditation requirements or judicial directives.
- (3) Confidentiality and privacy policies often act as barriers to the exchange of information between systems.

After identifying perceived problems with the current system, the subcommittee agreed to the following premises.

- (1) Improved coordination of existing supports throughout the children and youth services delivery system is necessary for the effective delivery of comprehensive services. Such coordination should address
 - (a) Improved identification of and access to services
 - (b) Timely delivery of services
 - (c) Increased capacity of related systems
 - (d) Full funding of services
 - (e) Open communications among systems and supports
 - (f) Child-driven, family-focused services
 - (g) Model procedures and best practice standards
 - (h) Support for children who “age out” of the children and youth services delivery system
 - (i) Cross-systems training for judges, guardians ad litem and caseworkers
 - (j) Data collection regarding the needs of children and families in the community so that services may be tailored to meet specific needs
 - (k) Access to information, particularly in light of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Department of Health and Human Services regulations implementing the act
- (2) Evaluation of the children and youth services delivery system and recommendations for systemic reform must include an integrated, cross-systems approach and the involvement of the judicial system and various departments within the Commonwealth, particularly the Departments of Education and Health.
- (3) Planning for service delivery must be long-term, strategic and coordinated.
- (4) Service delivery should be pro-active, reflect best practice standards and emphasize prevention efforts.
- (5) A cross-systems approach must reconcile regulatory requirements of different executive departments and agencies.
- (6) The value and efficiency of centralized planning and implementation must be explored.

- (7) Geographic diversity across the Commonwealth must be recognized to the extent that Pennsylvania is predominantly a rural state but the overwhelming percentage of services are delivered to urban areas.

Continuity and Consistency in Service Planning and Delivery

The subcommittee noted several concerns related to continuity and consistency in service planning and delivery in the current system.

- (1) Multiple funding streams and points of entry into the children and youth services delivery system complicate the efficient and effective program responses to the specific needs of children and families.
- (2) Program design models are based on the single imperative of exiting the system or on available funding streams.
- (3) The design of the children and youth services delivery system does not easily lend itself to the coordination of integrated services and continuity.
- (4) Multiple referrals for service result in facing multiple systems with varying regulations, policies, criteria and philosophies.
- (5) Often limited flexibility in funding restricts alternative approaches and creative problem solving.

Based on these concerns, the subcommittee members concurred on the following premises.

- (1) A child-focused, coordinated intake process, using a uniform assessment instrument with funding to facilitate its use would greatly enhance service delivery and outcomes.
- (2) A uniform basis of responsiveness, language and staffing would more appropriately support consistency throughout the children and youth services delivery system.
- (3) A uniform process of service delivery that emphasizes a holistic approach regarding a response to the needs of children and families would support consistency in practice.
- (4) Additional attention to the intake stage, through such efforts as placing experienced caseworkers in charge of the intake process, would improve consistency in the children and youth services delivery system and would help identify more effectively the service needs of children and families.
- (5) Any upfront costs regarding cross-systems approaches would be outweighed by the positive outcomes that are achieved through improved efficiency and coordination of services.
- (6) A coordinated, consistent process would address accountability concerns and provide a seamless delivery of services to children and families.

- (7) Community involvement improves continuity regarding the delivery of services to children and families.

Community Awareness

Throughout the deliberations of the subcommittee and the advisory committee, need to improve public relations efforts was a recurring theme. For example, the subcommittee discussed the need to “get the word out” about beneficial services to children and families and successes within the children and youth service delivery system. In addition, the subcommittee recognized that workers in the system should be permitted to publicly explain agency practices and the appropriateness of actions taken during periods of negative publicity. In regard to the issue of community awareness, the subcommittee specifically identified the following problems with the current system.

- (1) Public awareness of the scope of child welfare services is limited.
- (2) The perception of professionals not intimately involved in the children and youth services delivery system is often limited.
- (3) The level of understanding of child welfare issues within government institutions is often narrow and focused only on discrete issues.
- (4) Only bad press makes front-page news.
- (5) The public’s perception of child welfare services is often negative or punitive.

After enunciating the perceived problems regarding community awareness, the subcommittee developed the following recommendations.

- (1) A comprehensive educational initiative is needed to provide information to all stakeholders and the general public concerning the children and youth services delivery system. Such an initiative should address the efficiency of resources, coordination of services and outcomes from services provided.
- (2) A plan is needed to support focused ongoing education efforts and dialogue with elected officials.
- (3) A plan is needed to support relationships with the media to encourage acknowledgment of, and responsiveness to, successes of the children and youth services delivery system.
- (4) The message of the children and youth services delivery system to the community must be consistently focused on the safety, permanency and well being of children.

Funding

Another area of concern for the subcommittee was funding. Specifically, the subcommittee identified the following issues in regard to the funding of the children and youth services delivery system:

- (1) Problems with the current needs-based planning and budgeting process
- (2) Unfunded mandates, regulatory requirements and cost shifting
- (3) Inadequate financial resources and the inability to effectively structure available resources to meet the needs of the client due to regulatory and categorical requirements
- (4) Delays and cumbersome processes associated with the distribution of funds from the Commonwealth to the counties, thereby creating additional costs and difficulties for service providers

Accordingly, the subcommittee agreed on the following premises.

- (1) Flexibility in funding is needed to respond better to the needs of children and families and to adjust to changes brought about by external forces.
- (2) The needs-based planning and budgeting process should be redesigned to address the need for flexibility within the children and youth services delivery system and to reflect the realities of current practice and the complexity of cases within the system.
- (3) Requirements for collaboration and coordinated input about the needs-based planning and budgeting process should be enhanced.
- (4) Recognition must be given to the actual costs of providing mandated services.
- (5) Recognition and acceptance by the Commonwealth of the actual costs of care due to accreditation, regulations and best practice standards should occur.
- (6) Elimination of expectations by counties and the Commonwealth for the private sector to subsidize mandated services must be a priority.
- (7) Flexibility in the use of funding dollars is needed to support individualized service planning for children presenting complex problems or needs.
- (8) Practices creating unfunded mandates through initiatives, regulations or bulletins must be eliminated.
- (9) Realistic projections of the costs for services are necessary.
- (10) The fiscal impact associated with the costs of services should be addressed through input from private service providers.
- (11) Sufficient funding and flexible regulatory requirements are necessary to support the achievement of desired outcomes.

- (12) Payment mechanisms must be developed to support timely and regular payments to the counties from the State to support program operations and payments to providers.
- (13) The courts must recognize that certain judicial mandates for services may have significant fiscal impact on the counties and service providers.

How to Coordinate a Cross-Systems Approach

The Subcommittee on Structural and Systems Issues reviewed various service-coordinating entities in place in other states, considered the cross-systems approach utilized by the Child and Adolescent Service System Program (CASSP)¹⁹¹ and looked at the success of community collaboratives in Pennsylvania. It concluded that a State-level entity, with appropriate authority to affect change, would be the best way to improve the Commonwealth's children and youth services delivery system by coordinating the various systems that touch the lives of children and families. As first envisioned, the entity would be an Office of Cross-Systems Coordination based in the Governor's Office, thereby providing greater visibility and policy influence over issues concerning children and families. The entity would also serve as a mechanism to coordinate regulatory requirements and funding.

Although the advisory committee overwhelmingly supported the need for cross-systems coordination as a substantial improvement to the children and youth services delivery system, it favored the creation of a commission for cross-systems coordination, which would terminate its activities after a three-year period rather than a standing office. The advisory committee supported the proposed composition of a commission, which would include representatives from the Departments of Public Welfare, Health, Labor and Industry, Education and Community and Economic Development; the juvenile justice system; the insurance industry; the managed care industry; a medical care facility specializing in the special medical needs of children and the county government system. In addition, the advisory committee envisioned that the director of the office of prevention services and the children's ombudsman would also be members of the commission. The director and ombudsman are statutorily created positions and the subject of other proposed legislation outlined in this report.

¹⁹¹CASSP is coordinated by the Office of Mental Health and Substance Abuse Services (OMHSAS) within the Department of Public Welfare. On December 7, 2001, the subcommittee received a presentation on the CASSP system from Sherry Peters of OMHSAS. In addition, the members received a copy of two documents in connection with that presentation. Those documents were as follows: "Performance Expectations And Recommended Guidelines For The County Child And Adolescent Service System Program (CASSP) (Draft), 12/06/01, author unidentified, and a hardcopy of a PowerPoint presentation titled "What's Happening in CASSP – New Developments in the Child and Adolescent Service System Program in Pennsylvania," (undated and author unidentified).

The subcommittee also supported cross-systems coordination at the county level. To that end, it recommended that each county designate a county cross-systems coordinator, who shall be assisted by a county board consisting of local representatives of various services and entities. The county cross-systems coordinators would be responsible for submitting reports and providing information to the commission. The advisory committee agreed.

In discussing the structure of the cross-systems approach, the advisory committee supported the recommendation that within one year, the commission shall provide a comprehensive assessment and plan for the development of a cross-systems approach regarding service and programs for children and families and within three years, it shall issue a final report that includes such topics as the effectiveness of cross-systems approaches and recommendations for improvements.

Proposed Legislation

The substantive aspects of the subcommittee's work were ultimately captured in the recommendation to create statutorily a Governor's Commission on Cross-Systems Coordination. It should be noted, however, that although the subcommittee preferred that its recommendations be implemented through legislation, it believed that the concepts could also be implemented through executive order. The following sets forth a proposed new article of the Administrative Code regarding cross-systems coordination.

*Proposed New Article in The Administrative Code of 1929
Act of 1929, P.L. 177, No. 175*

ARTICLE VII-A CROSS-SYSTEMS COORDINATION

Sec.

- 701-A. Short title of subchapter.
- 702-A. Legislative findings and purpose.
- 703-A. Definitions.
- 704-A. Creation of commission.
- 705-A. Composition of commission.
- 706-A. Duties of commission.
- 707-A. County cross-systems coordinators.
- 708-A. Cooperation.
- 709-A. Reports.
- 710-A. Administration.
- 711-A. Sunset.

§ 701-A. Short title of subchapter.

This article shall be known and may be cited as the Cross-Systems Coordination Act.

§ 702-A. Legislative findings and purpose.

(a) Findings.--The General Assembly finds the following:

(1) The children and youth services delivery system in the Commonwealth is frequently complicated by the multiplicity and complexity of problems faced by children and families, the fragmentation of services among various service providers in the public and private sectors and the diversity of funding streams designated for support of the services.

Comment: A child or family, for example, may have simultaneous involvement with each of the following services and programs, and different departments or offices within departments may have jurisdiction over the services and programs: children and youth services, medical assistance, mental health/mental retardation, juvenile justice, early intervention, child care, job training, housing, education and drug and alcohol treatment and prevention.

(2) The fragmentation of services and funding is an urgent problem which leaves children and families underserved and at risk of more serious and potentially life-threatening problems.

(3) Services which should be designed, delivered and funded to meet the needs of children and families are often constrained by limitations in categories and allocations of funding.

(4) A holistic approach to service delivery is needed to support consistency in practice, to improve outcomes and to respond to the complex and multiple needs of children and families.

(5) Funding within the children and youth services delivery system should be reformed so that services and funding for services will comprehensively and efficiently address the needs of children and families.

(6) Numerous state, county and local efforts aimed at creating integrated, cross-systems approaches within the children and youth services delivery system have failed to substantially change the problems of bureaucratic overlap, fragmentation of services, conflicts in and duplication of effort, and the inefficient allocation of resources.

(7) Reform of the children and youth services delivery system and recommendations for systemic improvements must include an integrated and cross-systems approach and involve, at a minimum, the Departments of Public Welfare, Education, Health, Labor and Industry and Community and Economic Development, in addition to the judicial system, the insurance industry and the managed care industry.

(8) Strategic planning for the delivery of services within the children and youth services delivery system must be long-term and coordinated.

(9) The Commonwealth should explore the value and efficiency of centralized planning and implementation of services within the children and youth services delivery system.

(10) The Commonwealth would be well-served with a comprehensive educational initiative to provide information to stakeholders and the general public regarding the children and youth services delivery system.

(11) State agencies bear responsibility to ensure that the services provided under their authority are integrated, coordinated and funded so that the systems of service planning and service delivery do not impose hardships upon the children and families they are designed to serve.

(12) In order to improve the children and youth services delivery system, the Commonwealth must consider the actual costs of mandated services for service providers, to account for the costs associated with accreditation, regulatory requirements and best practice standards.

(b) Purpose.--It is the purpose of this article to promote and require the development of cross-systems approaches to transform and improve the delivery of services to children and families subject to 23 Pa.C.S. Chapter 63 (relating to child protective services) or 42 Pa.C.S. Chapter 63 (relating to juvenile matters).

§ 703-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Chairperson.” The chairperson of the commission for cross-systems coordination as set forth in section 705-A(a) (relating to composition of commission).

“Commission.” The commission for cross-systems coordination created under section 704-A (relating to creation of commission).

“Commonwealth agency.” Any executive branch department, board, commission, authority, office or agency of the government of this Commonwealth, whether or not subject to the policy supervision of the Governor, which serves children and families.

“Coordinator.” A county cross-systems coordinator created under section 707-A (relating to county cross-systems coordinators).

“Cross-systems approach.” An effort to provide coordinated services and programs under 23 Pa.C.S. Chapter 63 (relating to child protective services) or 42 Pa.C.S. Chapter 63 (relating to juvenile matters) to children and families when such services or programs are under the jurisdiction of more than one Commonwealth agency.

§ 704-A. Creation of commission.

There is hereby created a commission for cross-systems administration.

§ 705-A. Composition of commission.

(a) Chairperson.--The Governor shall designate a chairperson of the commission.

Comment: The chairperson does not necessarily have to be a member of the commission.

- (b) Members.--The commission shall consist of the following individuals:
- (1) From the Department of Public Welfare:
 - (i) The Deputy Secretary of the Office of Children, Youth and Families, or a designee of the Deputy Secretary.
 - (ii) The Deputy Secretary of the Office of Mental Health and Substance Abuse Services, or a designee of the Deputy Secretary.
 - (iii) The Deputy Secretary of the Office of Income Maintenance, or a designee of the Deputy Secretary.
 - (iv) The Deputy Secretary of the Office of Medical Assistance Programs, or a designee of the Deputy Secretary.
 - (v) The Deputy Secretary of the Office of Mental Retardation, or a designee of the Deputy Secretary.
 - (2) The Director of the Bureau of Drug and Alcohol Programs in the Department of Health, or a designee of the Director.
 - (3) From the Department of Labor and Industry:
 - (i) The Executive Director of the Office of Vocational Rehabilitation, or a designee of the Executive Director.
 - (ii) A representative regarding housing issues.
 - (4) The Secretary of the Department of Education, or a designee of the Secretary.
 - (5) The Secretary of the Department of Community and Economic Development, or a designee of the Secretary.
 - (6) A representative from the juvenile justice system.
 - (7) A representative from the insurance industry.
 - (8) From the managed care industry:
 - (i) A representative regarding children's health care issues.
 - (ii) A representative regarding behavioral health care issues.
 - (9) A representative from a medical care facility specializing in the special medical needs of children.
 - (10) A representative of county government.
 - (11) Any other individual that the Governor or chairperson deems necessary for the effective administration of the commission.

Note: In addition, the following individuals should also be included in this list after their positions are statutorily created: The Director of the Office of Prevention Services under proposed 23 Pa.C.S. § 6380.5 (relating to director of office of prevention services) and the Children's Ombudsman under proposed 23 Pa.C.S. § 6379.3 (relating to children's ombudsman).

§ 706-A. Duties of commission.

- (a) Initial meeting.--Within 90 days of the effective date of this article, the

chairperson shall convene the commission.

(b) Assessment.--Within one year of the effective date of this article, the commission shall provide a comprehensive assessment and plan for development of a cross-systems approach regarding services and programs for children and families.

(c) General duties.--The commission shall:

(1) Develop and oversee a cross-systems approach regarding services and programs for children and families.

(2) Encourage counties to develop a cross-systems approach as a standard practice.

(3) Resolve systemic problems associated with the coordination of services and programs, including those regarding categorical funding and funding streams.

(4) Review state regulations regarding the entities represented on the commission and make recommendations for changes to such regulations.

(5) Establish a baseline for performance measurements and outcomes for the counties, based on an initial two-year review of relevant data regarding the counties.

(6) Review outcomes from counties, based on information regarding child safety, permanency concerns and the well-being of children and their families.

(7) Evaluate the effects of a cross-systems approach and make recommendations for improvements as necessary.

(8) In reviewing outcomes from counties, consider unanticipated economic and environmental factors that impact on services to children and families.

(9) Coordinate multiple funding streams for services to children and families, to the fullest extent possible.

(10) Develop a cross-systems approach to facilitate the exchange and release of information regarding children and families.

(11) Foster flexibility in providing services to children and families.

(12) Develop a comprehensive and coordinated educational effort for legislative officials, legislative staff, stakeholders in the children and youth services delivery system and the general public regarding services to children and families and cross-systems approaches.

(13) Oversee the development of cross-systems training and education for caseworkers and staff in the children and youth services delivery system.

(14) Develop ways to reduce paperwork and eliminate duplicative procedures and documentation.

(15) Provide information to counties and coordinators to the fullest extent possible regarding cross-systems approaches.

(16) Prepare reports as set forth in section 709-A(a) (relating to reports).

§ 707-A. County cross-systems coordinators.

(a) Designation.--Each county shall designate a county cross-systems coordinator who shall be identified to the commission.

(b) Powers and duties.--Each coordinator shall have the following powers and duties:

(1) To develop and oversee local cross-systems approaches with the assistance of the county board under subsection (c).

(2) To evaluate the effects of local cross-systems approaches and make recommendations for improvements as necessary.

(3) To collect and distribute information to local entities regarding local cross-systems approaches.

(4) To foster flexibility in providing services to children and families.

(5) To promote community ownership and responsibility regarding the children and youth services delivery system.

(6) To advise the media and general public on local cross-systems approaches and services and programs for children and families.

(7) To provide information and otherwise cooperate with the commission to the fullest extent possible.

(8) Prepare reports as set forth in section 709-A(b) (relating to reports).

(c) County board.--The coordinator shall be assisted by a county board consisting of local representatives of the following services and entities:

(1) Drug and alcohol treatment and prevention.

(2) Mental health and mental retardation.

(3) Education.

(4) Housing.

(5) Job training.

(6) Child care.

(7) Managed care.

(8) Juvenile justice.

(9) Health.

(10) County assistance office.

(11) Children and youth services delivery system.

(12) Community collaborative boards.

(13) Private service providers, including faith-based service providers.

(14) Court system.

(15) Any other service provider or entity that the coordinator deems necessary for the effective administration of the county board.

§ 708-A. Cooperation.

(a) Commonwealth agencies.--Commonwealth agencies shall cooperate with and provide assistance to the commission to the fullest extent possible.

(b) Local entities.--Local entities shall cooperate with their respective coordinator and county board to the fullest extent possible in providing information.

(c) Coordinators.--Coordinators shall cooperate with the commission to the fullest extent possible.

§ 709-A. Reports.

(a) Commission.--

(1) Within one year of the effective date of this article, the commission shall submit to the Governor and General Assembly a report on its comprehensive assessment and plan for the development of a cross-systems approach regarding services and programs for children and families.

(2) Subject to section 711-A (relating to sunset), the commission shall submit to the Governor and General Assembly a report that shall include the following:

(i) A review of cross-systems approaches undertaken by the commission and coordinators.

(ii) An evaluation of the effectiveness of cross-systems approaches and recommendations for future improvements.

(iii) Recommendations for legislation or changes in rules or policies, if any.

(iv) Information regarding how the commission completed its duties as set forth in section 706-A(b) (relating to duties of commission).

(v) Any other information that the commission deems appropriate.

(b) Coordinators.--Each coordinator shall submit reports to the commission regarding local efforts to complete the duties as set forth in section 707-A(b) (relating to county cross-systems coordinators). The commission shall direct the coordinators as to the timing and nature of each report.

§ 710-A. Administration.

(a) Budget and staff.--The commission and chairperson shall have an adequate budget and staff for the effective administration of the powers and duties set forth in this article.

(b) Expenses.--The members of the commission are not entitled to compensation for their service as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

§ 711-A. Sunset.

(a) Report completed within three years.--If the report under section 709-A(a)(2) (relating to reports) has been submitted to the Governor and General Assembly, the commission shall terminate its activities and shall go out of existence three years after the effective date of this article.

(b) Report not completed within three years.-- If the report under section 709-A(a)(2) has not been submitted to the Governor and General Assembly within three years of the effective date of this article, the commission shall continue in existence until the submission of the report to the Governor and General Assembly.

Comment: It is intended that the framework for effective cross-systems approaches will be in place after three years at both the state and local levels, thereby eliminating the need for the commission. However, the coordinators would remain in place even though the commission would be eliminated. It is

also intended that three years is a reasonable time frame in which to complete the report. Nevertheless, if the commission would need additional time to complete the report, it should not be bound by an arbitrary deadline.

TRANSITIONAL LANGUAGE: This act shall take effect in 60 days.

PROPOSED LEGISLATION

The advisory committee recommends the following proposed legislation, which is described more fully in the text of this report.¹⁹²

Proposed Amendment to 18 Pa.C.S.¹⁹³

§ 2702. Aggravated assault.

(a) Offense defined.--A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c) or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;

(3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty;

¹⁹²Other statutory recommendations may have been approved but did not have actual language considered by the advisory committee. Those recommendations are discussed in the text of the report but are not included here.

¹⁹³See an explanation of this amendment in the section "Work Environment and Job Satisfaction" under the chapter entitled "Recruitment and Retention of Caseworkers."

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon;

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member or other employee, including a student employee, of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school; or

(6) attempts by physical menace to put any of the officers, agents, employees or other persons enumerated in subsection (c), while in the performance of duty, in fear of imminent serious bodily injury.

* * *

(c) Officers, employees, etc., enumerated.--The officers, agents, employees and other persons referred to in subsection (a) shall be as follows:

* * *

(35) An employee or agent of a county children and youth social service agency or a private entity that provides services to children and families under 23 Pa.C.S. Chapter 63 (relating to child protective services) or 42 Pa.C.S. Chapter 42 (relating to juvenile matters).

Proposed Amendments to 23 Pa.C.S. Chapter 63

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(7.1) The Auditor General, pursuant to an audit under sections 402 or 403 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. If pursuant to such an audit, the Auditor General issues public findings critical of the department, a county agency or a provider of child-care services, the department, agency or provider may disclose to the public information otherwise confidential under this section, but only to the extent necessary to respond to specific findings of the audit.

* * *

(12) A mandated reporter of suspected child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

(i) The final status of the child abuse report following the investigation, whether it be indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

A county agency shall also send written acknowledgement of receipt of the report of abuse to the reporter within ten days of receipt of the report by the agency.

(12.1) Any person reporting child abuse pursuant to section 6312 (relating to persons permitted to report suspected child abuse). Within ten days of the receipt of the report of abuse by the county agency, the agency shall send the reporter written acknowledgement of receipt of the report of abuse, along with information regarding the child protective services program and procedures, unless:

(i) the reporter does not disclose his name and address to the agency;

or

(ii) the reporter waives the acknowledgement. The county agency shall give the reporter oral notice of the availability of the acknowledgement.

No other information may be released under this paragraph.

(13) Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded. A county agency shall also send written acknowledgement of receipt of the report of abuse to the reporter within ten days of receipt of the report by the agency.

Note: The major thrust of this proposal is the addition of paragraph (12.1). Paragraphs (12) and (13), relating to notice to mandatory reporters, are amended to conform to the changes for non-mandatory reporters.

* * *

(16) A foster parent, with regard to records concerning the social, medical, psychological, psychiatric or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent, as needed to make decisions regarding the care and well-being of the child. Reports and information regarding the biological parents of the child may not be disclosed.

§ 6361. Organization for child protective services.

* * *

(d) Complaint resolution.--The county agency shall establish a formal procedure to assist in the resolution of complaints arising in the course of the provision of protective services through personnel other than those employed in the direct provision of protective services.

§ 6365. Services for prevention, investigation and treatment of child abuse.

(a) Instruction and education.--Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at

alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(a.1) Foster care homes for older children.--Each county agency shall develop the capacity in its foster care system so that at any given time foster care homes are available for at least 75% of the children who are 13 years of age or older and for whom foster care placement is appropriate.

* * *

§ 6375. County agency requirement for general protective services.

* * *

(f) Types of services.--Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(f.1) Foster care homes for older children.--Each county agency shall develop the capacity in its foster care system so that at any given time foster care homes are available for at least 75% of the children who are 13 years of age or older and for whom foster care placement is appropriate.

* * *

Proposed New Subchapter in 23 Pa.C.S. Chapter 63

SUBCHAPTER D.1

CHILDREN'S OMBUDSMAN

Sec.

- 6379.1. Short title of subchapter.
- 6379.2. Definitions.
- 6379.3. Children's ombudsman.
- 6379.4. Powers and duties of ombudsman.
- 6379.5. Investigative and remedial powers.
- 6379.6. Response to complaints.
- 6379.7. Cooperation of agencies and providers.
- 6379.8. Confidentiality of investigators and records.
- 6379.9. Findings and recommendations.
- 6379.10. Protection from retaliation.
- 6379.11. Non-exclusivity of remedy.

§ 6379.1. Short title of subchapter.

This subchapter shall be known and may be cited as the Children's Ombudsman Act.

§ 6379.2. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administrative agency." A state or county agency that provides services to a child who is the subject of an investigation conducted by the ombudsman pursuant to this subchapter.

"Child welfare services." "Child-care services" as defined in section 6303 (relating to definitions). The term does not include child day care centers or group and family day-care homes.

“Complainant.” An individual who makes a complaint pursuant to this subchapter.

“Remediable action.” An action by an administrative agency or an agent of the agency that is:

- (1) contrary to law, rule or policy;
- (2) imposed without an adequate statement of reason; or
- (3) based on irrelevant or erroneous grounds.

§ 6379.3. Children’s ombudsman.

(a) Appointment.--The Governor shall appoint a children’s ombudsman, subject to confirmation by a majority of the membership of the Senate.

(b) Term of office.--The ombudsman shall hold office for a term of five years and shall continue to hold office until his or her successor is appointed. The Governor may reappoint the ombudsman then serving for one additional term, subject to Senate confirmation. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term. An ombudsman who has served part of an unexpired term may serve up to two additional terms.

(c) Removal.--The Governor may remove the ombudsman only for neglect of duty, misconduct or inability to perform duties.

(d) Administrative support.--The ombudsman shall be an autonomous entity within the office of the Governor for purposes of administrative support. The ombudsman shall exercise its powers and duties, including the functions of budgeting, procurement and other management-related functions, independently of the office of the Governor.

§ 6379.4. Powers and duties of ombudsman.

(a) General rule.--The ombudsman shall have the following powers and duties:

(1) To receive, process and investigate complaints pursuant to this subchapter.

(2) To identify system issues and responses for the Governor, General Assembly and the Supreme Court and make appropriate recommendations to them concerning issues affecting the welfare of children.

(3) Subject to annual appropriations, to employ sufficient personnel to carry out the powers and duties prescribed by this subchapter.

(4) To budget and expend funds.

(5) To take appropriate steps to advise the public of the services of the ombudsman, the purposes of the office and procedures to contact the office.

(6) To prescribe procedures and promulgate regulations as necessary to carry out its powers and duties.

(b) Limitation.--The ombudsman may not overrule an action by an administrative agency or court.

§ 6379.5. Investigative and remedial powers.

The ombudsman may:

(1) Upon its own initiative or upon receipt of a complaint, investigate an alleged remediable action.

(2) Decide, in its discretion, whether to investigate a complaint.

(3) Hold an informal hearing and request that individuals appear before the ombudsman and give testimony or produce documentary evidence that the ombudsman considers relevant to a matter under investigation.

(4) Report findings and recommendations pursuant to section 6379.9 (relating to findings and recommendations).

§ 6379.6. Response to complaints.

(a) Notice.--Upon rendering a decision to investigate a complaint, the ombudsman shall notify the complainant of the decision to investigate and shall notify the department, county agency, child placing agency, and other interested parties of the intention to investigate. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the department, county agency, child placing agency and other interested parties of the decision and of the reasons for the ombudsman's action.

(b) Professional discipline.--If the investigation of a complaint leads the ombudsman to believe the matter complained of may involve professional misconduct, the ombudsman shall bring the matter to the attention of the authorities responsible for professional discipline. If the complaint refers to conduct by an attorney, including a guardian ad litem, or a court appointed special advocate, the ombudsman shall perform a preliminary investigation and transmit the results of that investigation with the referral.

(c) Referrals.--In the case of complaints brought to the attention of the ombudsman but not within the ombudsman's powers under this subsection, the

ombudsman shall refer the person making the complaint to a person with the authority or ability to assist that person.

(d) Alternative responses.--The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint open to the complainant before pursuing a complaint with the ombudsman. Subsequent to the administrative processing of a complaint, the ombudsman may conduct further investigations of any complaint upon the request of the complainant or upon the ombudsman's own initiative.

(e) Criminal violations.--If the ombudsman finds in the course of an investigation that an individual's action is in violation of state or Federal criminal law, the ombudsman shall immediately report that fact to the district attorney or the Attorney General. If the complaint is against a provider of child welfare services, the ombudsman shall refer the matter to the department for further action with respect to licensing.

§ 6379.7. Cooperation of agencies and providers.

(a) Investigations.--The department, county agency, administrative agency or provider of child welfare services shall do all of the following:

(1) Upon the ombudsman's request, grant the ombudsman access to all relevant information, records and documents in its possession that the ombudsman considers necessary in the investigation.

(2) Assist the ombudsman in obtaining the necessary releases for those documents that are specifically restricted.

(3) Provide the ombudsman upon request with progress reports concerning the administrative processing of a complaint.

(b) Public awareness.--Pursuant to regulations promulgated by the department, the department, county agency or provider of child welfare services shall provide information to a biological parent, prospective adoptive parent or foster parent regarding the provisions of this subchapter.

§ 6379.8. Confidentiality of investigations and records.

(a) Matters.--The ombudsman shall treat all matters under investigation as confidential, including the identities of recipients, individuals from whom information is acquired and persons seeking assistance from the ombudsman. Upon receipt of information that by law is confidential or privileged, the ombudsman shall maintain the confidentiality of the information and shall not further disclose or disseminate the information except as provided by applicable state or Federal law.

(b) Records.--A record of the office of the ombudsman is confidential, shall be used only for the purposes of this subchapter, and is not subject to court subpoena. Information contained in those records may not be disclosed in such a manner as to identify individuals, except for good cause shown on order of a court. The ombudsman or other agency may not disclose a record of the ombudsman or a record received from the ombudsman under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, except for good cause shown on order of a court. No person may disclose any record under this subsection without the consent of the complainant.

§ 6379.9. Findings and recommendations.

(a) Report of findings.--The ombudsman shall make a report of the findings of an investigation and make recommendations to the department, the county agency, the provider of child welfare services and other appropriate entities if the ombudsman finds any of the following:

(1) A matter should be further considered by the department, the county agency or provider of child welfare services.

(2) An administrative act should be modified or canceled.

(3) Reasons should be given for an administrative act.

(4) Other action should be taken by the department, the county agency or provider of child welfare services.

(b) Subjects of report.--Before announcing a conclusion or recommendation that expressly or by implication criticizes an individual, the department, the county agency or a provider of child welfare services, the ombudsman shall provide the subject of the report with reasonable advance notice and an opportunity to respond. When publishing an opinion adverse to the department, county agency or provider, the ombudsman shall include in the publication any statement of reasonable length made to the ombudsman by the subject of the report in defense or mitigation of the action. The ombudsman may request to be notified by the subject of the report within a specified time of any action taken on any recommendation presented.

(c) Notice to complainant.--The ombudsman shall notify the complainant of the actions taken by the ombudsman and by the department, county agency or

provider of child welfare services. The ombudsman shall provide the complainant with a copy of its recommendations regarding the complaint.

(d) Annual report.--The ombudsman shall submit to the Governor, the General Assembly, the administrative office of the Supreme Court and the department an annual report on the conduct of the ombudsman, including any recommendations regarding the need for legislation or for change in rules or policies.

§ 6379.10. Protection from retaliation.

(a) General rule.--An official, the department, the county agency or a provider of child welfare services may not penalize any person for filing a complaint in good faith or cooperating with the ombudsman in investigating a complaint.

(b) Obstruction.--An individual, the department, the county agency or a provider of child welfare services may not hinder the lawful actions of the ombudsman or employees of the ombudsman.

§ 6379.11. Non-exclusivity of remedy.

The authority granted the ombudsman under this subchapter is in addition to the authority granted under the provisions of:

- (1) any other statute or rule under which the remedy or right of appeal or objection is provided for a person; or
- (2) any procedure provided for the inquiry into or investigation of any matter.

(3) The authority granted the ombudsman does not limit or affect the remedy or right of appeal or objection and is not an exclusive remedy or procedure.

CONFORMING AMENDMENTS TO 23 Pa.C.S.

§ 6303. Definitions.

(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

“Ombudsman.” The children’s ombudsman established by section 6379.3 (relating to children’s ombudsman).

* * *

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(16) the ombudsman.

* * *

Proposed New Subchapter in 23 Pa.C.S. Chapter 63

SUBCHAPTER D.2

PREVENTION SERVICES FOR CHILDREN AND FAMILIES

Sec.

- 6380.1. Short title of subchapter.
- 6380.2. Legislative findings and purpose.
- 6380.3. Definitions.
- 6380.4. Office of prevention services.
- 6380.5. Director of office of prevention services.
- 6380.6. Prevention services board.
- 6380.7. Prevention services coordinators.
- 6380.8. Cooperation.
- 6380.9. Block grants.
- 6380.10. Request for proposal process.
- 6380.11. Annual report.

§ 6380.1. Short title of subchapter.

This subchapter shall be known and may be cited as the Prevention Services for Children and Families Act.

§ 6380.2. Legislative findings and purpose.

(a) Findings.--The General Assembly finds the following:

(1) The Commonwealth should develop a coordinated strategy to reduce the number of child placements, preserve the family unit and foster reunification where appropriate and consistent with the child's health and safety and improve permanency planning for children and families.

(2) The Commonwealth and local communities should strengthen efforts to prevent child abuse and neglect and concentrate on critical problem areas that lead to the placement of children within the children and youth services delivery system, including, but not limited to, poverty, ineffectual parenting,

lack of child supervision (particularly during after-school hours), drug and alcohol abuse, domestic violence, unmet housing needs, truancy, juvenile delinquency and indicators generally associated with child well-being, such as the following:

- (i) The percentage of low birth-weight babies.
- (ii) The infant mortality rate.
- (iii) The child death rate.
- (iv) The rate of teen deaths by accident, homicide and suicide.
- (v) The teen birth rate.
- (vi) The percentage of teens who are high school dropouts.
- (vii) The percentage of teens not attending school and not working.
- (viii) The percentage of children living in families where no parent has full-time, year-round employment.
- (ix) The percentage of children living in poverty.
- (x) The percentage of families with children headed by a single parent.

(3) Out-of-home placements represent a growing expense for the Commonwealth and may often be unnecessary if reasonable steps are taken to help families before their problems become critical and merit intervention by the children and youth services delivery system.

(4) The mandate of the Federal Adoption and Safe Families Act to make timely permanency decisions for children in placement can make it difficult for some families ever to be reunified once they are separated.

(5) Unfortunately, out-of-home placements do not always serve children's long-term interests, and a large number of children formerly in foster care are later convicted of criminal offenses and incarcerated.

(6) Too often, prevention services are given inadequate attention because they are not the primary responsibility of any existing Commonwealth agency.

(7) To improve prevention services, it is essential to further develop research into the efforts that best succeed, so that successful efforts may be replicated and expanded.

(8) An entity charged specifically with coordinating programs, services and funding to prevent child placements will foster innovative prevention efforts and be better equipped to develop cross-systems approaches to deliver services to children and families.

(9) Given the long-term effectiveness of prevention services and the need for a specific commitment of financial resources for prevention services, increased program development and coordination is necessary to ensure that a minimum of five percent of the budgets of all Commonwealth agencies serving children and families is devoted to prevention services.

(10) County agencies and local communities should prepare a prevention services plan to develop, coordinate and oversee prevention services within their respective counties and local communities.

(b) Purpose.--It is the purpose of this subchapter to encourage prevention services through the creation of an office of prevention services which will develop, coordinate and oversee efforts to prevent child abuse and neglect,

juvenile delinquency, juvenile dependency, school dropouts, truancy, violence and the need for out-of-home placements.

§ 6380.3. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agency.” A public or private entity, including a county agency, which provides child-care services.

Note: “Child-care services” is defined in 23 Pa.C.S. § 6303 (and applicable to the entire chapter) as follows: “Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public or private schools, intermediate units or area vocational-technical schools.”

Note: “County agency” is defined in 23 Pa.C.S. § 6303 (and applicable to the entire chapter) as follows: “The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.”

“Board.” The prevention services board set forth in section 6380.6 (relating to prevention services board).

“Commonwealth agency.” Any executive branch department, board, commission, authority, office or agency of the government of this

Commonwealth, whether or not subject to the policy supervision of the Governor, which serves children and families.

“Coordinator.” A prevention services coordinator set forth in section 6380.7 (relating to prevention services coordinator).

“Cross-systems approach.” An effort to provide services to children and families through services or programs under the jurisdiction of more than one Commonwealth agency.

“Director.” The director of the office of prevention services created under section 6380.5 (relating to director of office of prevention services).

“Prevention service.” Any service for children and their families which is primarily designed to prevent child abuse and neglect, juvenile delinquency, juvenile dependency, school dropouts, truancy, violence and the need for out-of-home placements.

§ 6380.4. Office of prevention services.

There is hereby created an office of prevention services.

§ 6380.5. Director of office of prevention services.

(a) Appointment.--The Governor shall appoint a director of the office of prevention services, with the advice and consent of the Senate, who shall serve at the pleasure of the Governor.

(b) Powers and duties.--The director shall have the following powers and duties:

(1) To develop, coordinate and oversee existing prevention services in the Commonwealth.

(2) To determine the effectiveness and cost-effectiveness of existing prevention services.

(3) To identify best practices in prevention services, with attention to services provided by research-based programs.

(4) To develop new and effective prevention services.

(5) To identify how existing prevention services may continue.

(6) To develop improved prevention services for specific populations underserved by existing prevention programs, including, but not limited to, incarcerated parents and their children, medically fragile children, chemically-dependent parents and children, parents and children with mental illness or mental retardation, teenagers and teenage parents.

(7) To identify potential sources of funding for new and existing prevention services, including sources not presently utilized.

(8) To determine whether a minimum of five percent of the budget of each Commonwealth agency is devoted to prevention services and, if not, to suggest ways in which it can be done.

Comment: This paragraph is not intended to mandate each Commonwealth agency to segregate 5% of its budget for prevention services. Instead, it is merely a benchmark to demonstrate the importance of prevention services.

(9) To plan and coordinate cross-systems approaches to prevention services.

(10) To provide technical assistance to Commonwealth agencies and agencies within the counties and local communities to develop prevention services.

(11) To assist county agencies and local communities in preparing a prevention services plan to develop, coordinate and oversee prevention services within their respective counties and local communities.

(12) To assess demographic and other data in order to assist Commonwealth agencies and agencies within the counties and local communities in identifying areas of high need regarding prevention services.

(13) To share information regarding prevention services with coordinators, Commonwealth agencies and agencies within the counties and local communities.

(14) To accept funds for prevention services from various sources identified and pursued.

(15) To distribute block grants to counties as set forth in section 6380.9 (relating to block grants).

(16) To oversee the request for proposal process as set forth in section 6380.10 (relating to request for proposal process).

(17) To provide technical assistance and information to counties and agencies regarding block grants and the request for proposal process, to the extent practical as determined by the director.

(18) To provide technical assistance to county agencies regarding the development of a needs-based assessment, to the extent practical as determined by the director.

(19) To convene regular meetings of the board.

(20) To take such other actions as the director deems necessary for the

effective administration of the office of prevention services.

(c) Administration of office.--The director shall have an adequate budget, staff and office for the effective administration of the office of prevention services.

§ 6380.6. Prevention services board.

(a) Composition.--The director shall be assisted by a prevention services board consisting of the following individuals:

(1) The Secretary of the Department of Public Welfare, or a designee of the Secretary.

(2) The Secretary of the Department of Health, or a designee of the Secretary.

(3) The Secretary of the Department of Education, or a designee of the Secretary.

(4) The Secretary of the Department of Labor and Industry, or a designee of the Secretary.

(5) The Secretary of the Department of Community and Economic Development, or a designee of the Secretary.

(6) The Insurance Commissioner, or a designee of the Commissioner.

(7) Chair of the Pennsylvania Commission on Crime and Delinquency, or a designee of the Chair.

(8) Any other individual that the director deems necessary for the effective administration of the office of prevention services.

(b) Expenses.--The members of the board are not entitled to additional compensation for their service as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

§ 6380.7. Prevention services coordinators.

(a) Designation.--Each county shall designate a prevention services coordinator who shall be identified to the director.

(b) Powers and duties.--Each coordinator shall have the following powers and duties:

(1) To develop, coordinate and oversee existing prevention services of agencies within the coordinator's county and local communities.

(2) To determine the effectiveness and cost-effectiveness of existing local prevention services.

(3) To tailor the best practice standards for prevention services to meet the needs of the coordinator's county and local communities.

(4) To develop new and effective local prevention services.

(5) To identify how existing local prevention services may continue.

(6) To develop improved local prevention services for specific populations underserved by existing prevention programs, including, but not limited to, incarcerated parents and their children, medically fragile children, chemically-dependent parents and children, parents and children with mental illness or mental retardation, teenagers and teenage parents.

(7) To identify potential sources of funding for new and existing local

prevention services, including sources not presently utilized.

(8) To determine whether a minimum of five percent of the budget of each local governmental agency serving children and families is devoted to prevention services and, if not, to suggest ways in which it can be done.

(9) To plan and coordinate cross-systems approaches to local prevention services.

(10) To prepare a prevention services plan to develop, coordinate and oversee prevention services within the coordinator's county and local communities.

(11) To assess county and local demographic and other data in order to assist local agencies in identifying areas of high need regarding prevention services.

(12) To share information with the coordinator's county and local communities, local agencies, the director and the board regarding local prevention services and needs.

(13) To accept funds for prevention services from various sources identified and pursued.

(14) To take such other actions as the coordinator deems necessary to carry out the coordinator's duties.

(c) Information.--A coordinator shall provide necessary information to the director for the purposes of preparing the annual report under section 6180.11 (relating to annual report).

§ 6380.8. Cooperation.

(a) Coordinators.--Each coordinator shall cooperate with the director and board to the fullest extent possible.

(b) Commonwealth agencies.--Commonwealth agencies shall cooperate with and provide assistance to the director and board without financial reimbursement.

(c) Agencies.--All agencies within the counties and local communities shall cooperate with the director, the board and their respective coordinator to the fullest extent possible in providing information.

§ 6380.9. Block grants.

(a) Source.--Block grant funds shall be derived from sources identified and pursued by the director and from funds appropriated by the General Assembly from time to time.

Comment: It is intended that funding sources include untapped and under-tapped federal monies and any funds from private foundations.

(b) Distribution.--The director shall distribute block grants for prevention services to each county as provided in this section.

(c) Amount.--The amount of each county's block grant shall be based on the population of the county and county demographic information deemed relevant by the director, which may include the following:

(1) The county poverty rate and local incidence of homelessness.

(2) The incidence of high-risk behaviors for children and families in the county.

(3) The availability of existing prevention services in the county and the need for additional prevention services in the county.

(4) The number of children served by the county agency.

(5) Indicators generally associated with child well-being in the county, including the following:

(i) The percentage of low birth-weight babies

(ii) The infant mortality rate.

(iii) The child death rate.

(iv) The rate of teen deaths by accident, homicide and suicide.

(v) The teen birth rate.

(vi) The percentage of teens who are high school dropouts.

(vii) The percentage of teens not attending school and not working.

(viii) The percentage of children living in families where no parent has full-time, year-round employment.

(ix) The percentage of children living in poverty.

(x) The percentage of families with children headed by a single parent.

(d) Adjustment.--The director may adjust the amount of block grant funds distributed to a county based on the following:

(1) The availability of funds.

(2) A change in the demographic factors of a county.

(3) The overall effectiveness and cost effectiveness of prevention services in a county.

(4) Any other factor that the director deems reasonable and necessary.

(e) County needs assessment.--The director shall determine what percentage of a county's block grant may be used for the county to assess its needs in developing and implementing prevention services.

§ 6380.10. Request for proposal process.

(a) County disbursement.--A county shall disburse the block grant funds that it has received under section 6380.9 (relating to block grants) through a request for proposal process as provided in this section. A county shall discharge its duties impartially so as to assure fair competitive access to block grant funds for prevention services by responsible agencies that conduct themselves in a manner that fosters public confidence in the integrity of the disbursement process.

(b) Application.--Any agency or other entity that provides prevention services may submit a proposal to the county for block grant funds to develop and implement prevention services.

Comment: It is intended that private agencies, public agencies and public/private partnerships could apply for funds through the request for proposal process. In addition, if the county itself has developed prevention services, the county may fund such services with block grant money. Although a county controls the distribution of its block grant funds and may at times be in "competition" for block grant funds with, for example, private service providers, the county will still be accountable for its decision to fund its own prevention services since tax dollars are involved and the county will want to fund the most effective, cost-efficient program available so as not to jeopardize future block grant funds.

(c) Characteristics of prevention services.--Prevention services that are considered through the request for proposal process shall, to the fullest extent

possible, be evidence-based, replicable and innovative, consistently achieve positive outcomes and yield results that are consistent with the program design.

Comment: It is intended that an agency or other entity will be given broad discretion to develop and implement prevention services, with maximum flexibility to achieve outcome-based standards and without strict procedural mandates.

(d) Administrative costs.--A request for proposal may contain a request for administrative costs that reflect the anticipated operating expenses associated with the development and implementation of prevention services.

Comment: There is no cap to the percentage designated for administrative costs. A county would need to determine what is reasonable on a case-by-case basis. The provision for administrative costs is intended to be flexible, but should not encourage duplicative or wasteful practices.

(e) General standards of ethical conduct.--Any attempt on the part of an agent of the county to realize personal gain through the disbursement process or engage in conduct inconsistent with the proper discharge of the agent's duties is a breach of the public trust. An agent must avoid any conflict of interest or improper use of information regarding the disbursement or request for proposal process. If any person has reason to believe that any breach of standards has occurred, that person shall report all relevant facts to the State Ethics Commission and the Attorney General for any appropriate action.

§ 6380.11. Annual report.

The director shall submit to the Governor and the General Assembly an annual report on the office of prevention services. Such report shall include:

(1) A review of the prevention services undertaken by Commonwealth agencies in the preceding year, including a statement of the amount of funds

expended for such services and the number of children served.

(2) An evaluation of the effectiveness of prevention services by agencies and recommendations regarding the future provision of similar or additional prevention services.

(3) An evaluation of the need for prevention services in the Commonwealth, including an assessment of such need at the county and local community level.

(4) A review of the distribution of block grants to the counties.

(5) A review of the county disbursement of block grant funds through the request for proposal process.

(6) The identification of current and possible future funding sources for prevention services.

(7) Recommendations for legislation or changes in rules or policies, if any.

(8) Any other information which the director deems appropriate.

TRANSITIONAL LANGUAGE: This act shall take effect in six months.

Proposed Amendments to 42 Pa.C.S. Chapter 63

§ 6336. Conduct of hearings.

* * *

(d) Proceeding in camera.--Except in hearings to declare a person in contempt of court and in hearings as specified in subsection (e), the general public shall be excluded from hearings under this chapter concerning a child alleged to be delinquent. Only the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding or in the work of the court shall be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency are being heard.

(e) Open proceedings.--The general public shall not be excluded from any hearings under this chapter concerning a child alleged to be delinquent:

(1) Pursuant to a petition alleging delinquency where the child was 14 years of age or older at the time of the alleged conduct and the alleged conduct would be considered a felony if committed by an adult.

(2) Pursuant to a petition alleging delinquency where the child was 12 years of age or older at the time of the alleged conduct and where the alleged conduct would have constituted one or more of the following offenses if committed by an adult:

(i) Murder.

(ii) Voluntary manslaughter.

(iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(v) Involuntary deviate sexual intercourse.

(vi) Kidnapping.

(vii) Rape.

(viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(ix) Robbery of motor vehicle.

(x) Attempt or conspiracy to commit any of the offenses in this paragraph.

Notwithstanding anything in this subsection, the proceedings shall be closed upon and to the extent of any agreement between the child and the attorney for the Commonwealth.

(e.1) Dependency proceedings.--

(1) Hearings under this chapter concerning a child alleged to be dependent shall be open to the public. The general public or any person may be excluded from proceedings only if the presiding judge or master determines, on an individualized basis, based upon supporting evidence, that exceptional circumstances require such exclusion in that case. Whenever the judge or master orders the exclusion of any person or the general public from

a proceeding or part of a proceeding, the judge shall make findings prior to ordering the exclusion. The decision of whether to close a proceeding shall be made without a separate hearing on that issue and may be made either upon motion or sua sponte.

(2) The judge or master may order the exclusion of the general public or any person from a part of the proceeding, including the testimony of the child or any party or witness. A decision under this paragraph shall be at the discretion of the judge or master, and may be reviewed only for abuse of discretion.

(3) This subsection does not limit the applicability of 23 Pa.C.S. section 6339 (relating to confidentiality of reports) or 6340 (relating to release of information in confidential reports).

(4) A judge or master may not authorize the use of electronic broadcasting, televising, recording or taking photographs in the courtroom, hearing room, or areas immediately adjacent thereto during sessions or recesses between sessions of any hearing concerning a child alleged to be dependent.

(f) Discretion of court.--The court at any disposition proceeding under subsection (e) or (e.1) shall have discretion to maintain the confidentiality of mental health, medical or juvenile institutional documents or juvenile probation reports.

§ 6351. Disposition of dependent child.

* * *

(f) Matters to be determined at permanency hearing.--At each hearing, the court shall:

* * *

(8) determine the services needed to assist a child who is 16 years of age or older to make the transition to independent living; [and]

(9) if the child has been in placement for at least 15 of the last 22 months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the home or to preserve and reunify the family need not be made or continued to be made determine whether the county agency has filed or sought to join a petition to terminate parental rights and to identify, recruit, process and approve a qualified family to adopt the child unless:

* * *

(iii) the child's family has not been provided with necessary services to achieve the safe return to the child's home within the time frames set forth in the permanency plan[.];

(10) if the child is 16 years of age or older, determine whether the following are included in the service planning for the child and whether they have been addressed by the caseworker working with the child:

(i) mental health and mental retardation issues;

(ii) drug and alcohol addiction issues;

(iii) education and tutoring needs;

(iv) job training;

(v) domestic violence prevention training;

(vi) sex and sexuality education;

(vii) parenting training if the child is a parent;

(viii) applying for Supplemental Security Income and other public benefits for which the child may be eligible; and

(ix) if the child is male, military registration;

(11) if the child is 16 years of age or older, determine whether the child understands that he may remain in the children and youth services delivery system until age 21 if he, before reaching the age of 18 years, requests the court to retain jurisdiction until he reaches the age of 21 years so that he may continue a course of instruction or treatment; and

(12) if the child is a parent, determine whether the child understands that:

(i) he does not need to leave placement in order to be with his child;

and

(ii) his own status as a dependent child is not a reason for the court to adjudicate his child dependent.

* * *

Proposed Amendment to The Public Welfare Code (62 P.S.)

§ 701. Availability of services

The department shall assure within the Commonwealth the availability and equitable provision of adequate public child welfare services for all children who need them regardless of religion, race, settlement, residence, age or economic or social status.

Proposed New Article in The Administrative Code of 1929
Act of 1929, P.L. 177, No. 175

ARTICLE VII-A

CROSS-SYSTEMS COORDINATION

Sec.

- 701-A. Short title of subchapter.
- 702-A. Legislative findings and purpose.
- 703-A. Definitions.
- 704-A. Creation of commission.
- 705-A. Composition of commission.
- 706-A. Duties of commission.
- 707-A. County cross-systems coordinators.
- 708-A. Cooperation.
- 709-A. Reports.
- 710-A. Administration.
- 711-A. Sunset.

§ 701-A. Short title of subchapter.

This article shall be known and may be cited as the Cross-Systems Coordination Act.

§ 702-A. Legislative findings and purpose.

(a) Findings.--The General Assembly finds the following:

(1) The children and youth services delivery system in the Commonwealth is frequently complicated by the multiplicity and complexity of problems faced by children and families, the fragmentation of services among various service providers in the public and private sectors and the diversity of funding streams designated for support of the services.

Comment: A child or family, for example, may have simultaneous involvement with each of the following services and programs, and different departments or offices within departments may have jurisdiction over the services and programs: children and youth services, medical assistance,

mental health/mental retardation, juvenile justice, early intervention, child care, job training, housing, education and drug and alcohol treatment and prevention.

(2) The fragmentation of services and funding is an urgent problem which leaves children and families underserved and at risk of more serious and potentially life-threatening problems.

(3) Services which should be designed, delivered and funded to meet the needs of children and families are often constrained by limitations in categories and allocations of funding.

(4) A holistic approach to service delivery is needed to support consistency in practice, to improve outcomes and to respond to the complex and multiple needs of children and families.

(5) Funding within the children and youth services delivery system should be reformed so that services and funding for services will comprehensively and efficiently address the needs of children and families.

(6) Numerous state, county and local efforts aimed at creating integrated, cross-systems approaches within the children and youth services delivery system have failed to substantially change the problems of bureaucratic overlap, fragmentation of services, conflicts in and duplication of effort, and the inefficient allocation of resources.

(7) Reform of the children and youth services delivery system and recommendations for systemic improvements must include an integrated and cross-systems approach and involve, at a minimum, the Departments of Public Welfare, Education, Health, Labor and Industry and Community and

Economic Development, in addition to the judicial system, the insurance industry and the managed care industry.

(8) Strategic planning for the delivery of services within the children and youth services delivery system must be long-term and coordinated.

(9) The Commonwealth should explore the value and efficiency of centralized planning and implementation of services within the children and youth services delivery system.

(10) The Commonwealth would be well-served with a comprehensive educational initiative to provide information to stakeholders and the general public regarding the children and youth services delivery system.

(11) State agencies bear responsibility to ensure that the services provided under their authority are integrated, coordinated and funded so that the systems of service planning and service delivery do not impose hardships upon the children and families they are designed to serve.

(12) In order to improve the children and youth services delivery system, the Commonwealth must consider the actual costs of mandated services for service providers, to account for the costs associated with accreditation, regulatory requirements and best practice standards.

(b) Purpose.--It is the purpose of this article to promote and require the development of cross-systems approaches to transform and improve the delivery of services to children and families subject to 23 Pa.C.S. Chapter 63 (relating to child protective services) or 42 Pa.C.S. Chapter 63 (relating to juvenile matters).

§ 703-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Chairperson.” The chairperson of the commission for cross-systems coordination as set forth in section 705-A(a) (relating to composition of commission).

“Commission.” The commission for cross-systems coordination created under section 704-A (relating to creation of commission).

“Commonwealth agency.” Any executive branch department, board, commission, authority, office or agency of the government of this Commonwealth, whether or not subject to the policy supervision of the Governor, which serves children and families.

“Coordinator.” A county cross-systems coordinator created under section 707-A (relating to county cross-systems coordinators).

“Cross-systems approach.” An effort to provide coordinated services and programs under 23 Pa.C.S. Chapter 63 (relating to child protective services) or 42 Pa.C.S. Chapter 63 (relating to juvenile matters) to children and families when such services or programs are under the jurisdiction of more than one Commonwealth agency.

§ 704-A. Creation of commission.

There is hereby created a commission for cross-systems administration.

§ 705-A. Composition of commission.

(a) Chairperson.--The Governor shall designate a chairperson of the commission.

Comment: The chairperson does not necessarily have to be a member of the commission.

(b) Members.--The commission shall consist of the following individuals:

(1) From the Department of Public Welfare:

(i) The Deputy Secretary of the Office of Children, Youth and Families, or a designee of the Deputy Secretary.

(ii) The Deputy Secretary of the Office of Mental Health and Substance Abuse Services, or a designee of the Deputy Secretary.

(iii) The Deputy Secretary of the Office of Income Maintenance, or a designee of the Deputy Secretary.

(iv) The Deputy Secretary of the Office of Medical Assistance Programs, or a designee of the Deputy Secretary.

(v) The Deputy Secretary of the Office of Mental Retardation, or a designee of the Deputy Secretary.

(2) The Director of the Bureau of Drug and Alcohol Programs in the Department of Health, or a designee of the Director.

(3) From the Department of Labor and Industry:

(i) The Executive Director of the Office of Vocational Rehabilitation, or a designee of the Executive Director.

(ii) A representative regarding housing issues.

(4) The Secretary of the Department of Education, or a designee of the Secretary.

- (5) The Secretary of the Department of Community and Economic Development, or a designee of the Secretary.
- (6) A representative from the juvenile justice system.
- (7) A representative from the insurance industry.
- (8) From the managed care industry:
 - (i) A representative regarding children's health care issues.
 - (ii) A representative regarding behavioral health care issues.
- (9) A representative from a medical care facility specializing in the special medical needs of children.
- (10) A representative of county government.
- (11) Any other individual that the Governor or chairperson deems necessary for the effective administration of the commission.

Note: In addition, the following individuals should also be included in this list after their positions are statutorily created: The Director of the Office of Prevention Services under proposed 23 Pa.C.S. § 6380.5 (relating to director of office of prevention services) and the Children's Ombudsman under proposed 23 Pa.C.S. § 6379.3 (relating to children's ombudsman).

§ 706-A. Duties of commission.

- (a) Initial meeting.--Within 90 days of the effective date of this article, the chairperson shall convene the commission.
- (b) Assessment.--Within one year of the effective date of this article, the commission shall provide a comprehensive assessment and plan for development of a cross-systems approach regarding services and programs for children and families.

(c) General duties.--The commission shall:

(1) Develop and oversee a cross-systems approach regarding services and programs for children and families.

(2) Encourage counties to develop a cross-systems approach as a standard practice.

(3) Resolve systemic problems associated with the coordination of services and programs, including those regarding categorical funding and funding streams.

(4) Review state regulations regarding the entities represented on the commission and make recommendations for changes to such regulations.

(5) Establish a baseline for performance measurements and outcomes for the counties, based on an initial two-year review of relevant data regarding the counties.

(6) Review outcomes from counties, based on information regarding child safety, permanency concerns and the well-being of children and their families.

(7) Evaluate the effects of a cross-systems approach and make recommendations for improvements as necessary.

(8) In reviewing outcomes from counties, consider unanticipated economic and environmental factors that impact on services to children and families.

(9) Coordinate multiple funding streams for services to children and families, to the fullest extent possible.

(10) Develop a cross-systems approach to facilitate the exchange and release of information regarding children and families.

(11) Foster flexibility in providing services to children and families.

(12) Develop a comprehensive and coordinated educational effort for legislative officials, legislative staff, stakeholders in the children and youth services delivery system and the general public regarding services to children and families and cross-systems approaches.

(13) Oversee the development of cross-systems training and education for caseworkers and staff in the children and youth services delivery system.

(14) Develop ways to reduce paperwork and eliminate duplicative procedures and documentation.

(15) Provide information to counties and coordinators to the fullest extent possible regarding cross-systems approaches.

(16) Prepare reports as set forth in section 709-A(a) (relating to reports).

§ 707-A. County cross-systems coordinators.

(a) Designation.--Each county shall designate a county cross-systems coordinator who shall be identified to the commission.

(b) Powers and duties.--Each coordinator shall have the following powers and duties:

(1) To develop and oversee local cross-systems approaches with the assistance of the county board under subsection (c).

(2) To evaluate the effects of local cross-systems approaches and make recommendations for improvements as necessary.

- (3) To collect and distribute information to local entities regarding local cross-systems approaches.
 - (4) To foster flexibility in providing services to children and families.
 - (5) To promote community ownership and responsibility regarding the children and youth services delivery system.
 - (6) To advise the media and general public on local cross-systems approaches and services and programs for children and families.
 - (7) To provide information and otherwise cooperate with the commission to the fullest extent possible.
 - (8) Prepare reports as set forth in section 709-A(b) (relating to reports).
- (c) County board.--The coordinator shall be assisted by a county board consisting of local representatives of the following services and entities:
- (1) Drug and alcohol treatment and prevention.
 - (2) Mental health and mental retardation.
 - (3) Education.
 - (4) Housing.
 - (5) Job training.
 - (6) Child care.
 - (7) Managed care.
 - (8) Juvenile justice.
 - (9) Health.
 - (10) County assistance office.
 - (11) Children and youth services delivery system.

(12) Community collaborative boards.

(13) Private service providers, including faith-based service providers.

(14) Court system.

(15) Any other service provider or entity that the coordinator deems necessary for the effective administration of the county board.

§ 708-A. Cooperation.

(a) Commonwealth agencies.--Commonwealth agencies shall cooperate with and provide assistance to the commission to the fullest extent possible.

(b) Local entities.--Local entities shall cooperate with their respective coordinator and county board to the fullest extent possible in providing information.

(c) Coordinators.--Coordinators shall cooperate with the commission to the fullest extent possible.

§ 709-A. Reports.

(a) Commission.--

(1) Within one year of the effective date of this article, the commission shall submit to the Governor and General Assembly a report on its comprehensive assessment and plan for the development of a cross-systems approach regarding services and programs for children and families.

(2) Subject to section 711-A (relating to sunset), the commission shall submit to the Governor and General Assembly a report that shall include the following:

(i) A review of cross-systems approaches undertaken by the commission and coordinators.

(ii) An evaluation of the effectiveness of cross-systems approaches and recommendations for future improvements.

(iii) Recommendations for legislation or changes in rules or policies, if any.

(iv) Information regarding how the commission completed its duties as set forth in section 706-A(b) (relating to duties of commission).

(v) Any other information that the commission deems appropriate.

(b) Coordinators.--Each coordinator shall submit reports to the commission regarding local efforts to complete the duties as set forth in section 707-A(b) (relating to county cross-systems coordinators). The commission shall direct the coordinators as to the timing and nature of each report.

§ 710-A. Administration.

(a) Budget and staff.--The commission and chairperson shall have an adequate budget and staff for the effective administration of the powers and duties set forth in this article.

(b) Expenses.--The members of the commission are not entitled to compensation for their service as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

§ 711-A. Sunset.

(a) Report completed within three years.--If the report under section 709-A(a)(2) (relating to reports) has been submitted to the Governor and General Assembly, the commission shall terminate its activities and shall go out of existence three years after the effective date of this article.

(b) Report not completed within three years.-- If the report under section 709-A(a)(2) has not been submitted to the Governor and General Assembly within three years of the effective date of this article, the commission shall continue in existence until the submission of the report to the Governor and General Assembly.

Comment: It is intended that the framework for effective cross-systems approaches will be in place after three years at both the state and local levels, thereby eliminating the need for the commission. However, the coordinators would remain in place even though the commission would be eliminated. It is also intended that three years is a reasonable time frame in which to complete the report. Nevertheless, if the commission would need additional time to complete the report, it should not be bound by an arbitrary deadline.

ADDITIONAL ISSUES

During its review of the children and youth services delivery system, the advisory committee encountered numerous areas of concern that it could not study in a thorough manner due to time constraints. These areas of concern are set forth in this section. The lack of comprehensive review of these issues or their absence from this report is not intended to trivialize their importance to children and families. The advisory committee recommends further review of these issues in order that additional recommendations may be made to improve the children and youth services delivery system in Pennsylvania.¹⁹⁴

Quality of Legal Representation for Children and Parents

The Juvenile Act (42 Pa.C.S. Chapter 63) provides for the appointment of counsel for parties in dependency proceedings.¹⁹⁵ The law also imposes specific obligations on a guardian ad litem for a child, including meeting regularly with the child and thoroughly preparing for hearings.¹⁹⁶ In addition, in 1996, the American Bar Association (ABA) promulgated Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases in an effort to standardize and elevate the practice of attorneys representing children. The ABA Standards specify the roles and responsibilities of such attorneys and a set of standards for judicial administrators and trial judges to assure high quality legal representation.¹⁹⁷

¹⁹⁴Other issues are also noted throughout the report and are not necessarily replicated here.

¹⁹⁵ § 6337. Right to counsel.

Except as otherwise provided under this chapter a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Counsel must be provided for a child unless his parent, guardian, or custodian is present in court and affirmatively waives it. However, the parent, guardian, or custodian may not waive counsel for a child when their interest may be in conflict with interest or interests of the child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

¹⁹⁶42 Pa.C.S. § 6311 (relating to guardian ad litem for child in court proceedings).

¹⁹⁷For further discussion of the ABA Standards and other matters relating to legal representation of children in Pennsylvania, see Juvenile Law Center, *Promises Kept, Promises Broken: An Analysis of Children's Right to Counsel in Dependency Proceedings in Pennsylvania* (2001). The advisory committee was not aware of a similar study regarding the representation of parents.

Although the advisory committee heard anecdotal accounts of concern for the quality of legal representation of both children and families involved in dependency cases, it did not have an adequate opportunity to review the issue. The advisory committee acknowledged that while some efforts across the Commonwealth regarding legal representation are noteworthy, the quantity, geographical diversity and substantive impact of representation problems merit additional review. Specific concerns raised by the advisory committee include the failure of some courts to appoint attorneys for parents, noncompliance with the law, lack of contact between attorneys and their clients, high caseloads for attorneys and inadequate compensation for some court-appointed attorneys.

Post-Secondary Education

According to the Pennsylvania Council of Children Youth and Families, the Foster Care Independence Act established the requirement that states consult with a broad variety of stakeholders in developing new independent living initiatives. Consequently, the Department of Public Welfare, Office of Children, Youth and Families established the Independent Living Workgroup. Subcommittees of the workgroup included Prevention, Program Eligibility, Education, Employment and Administration/Fiscal. The workgroup also addressed the issue of Medicaid extension.

The working group addressed the issue of tuition assistance. A clear priority for the workgroup related to education, particularly post-secondary education. A database maintained by the University of Pittsburgh Independent Living Project recently reported the following data: 3,392 youth (unduplicated) were served in the Independent Living Program in 2001 and 2002. Of those, 150 embarked on post-secondary education (college and trade schools). These data admittedly do not include all youth receiving independent living services in Pennsylvania nor all youth aging out of foster care. However, if these numbers are at all representative of the entire population of youth aging out of care, potentially fewer than 5% of these youth are pursuing higher education. In stark contrast, more than 70% of Pennsylvania high school graduates overall pursue postsecondary education (according to the Department of Education website).

More than a dozen states have established programs that assist former foster youth in pursuit of higher education. Programs range from tuition waivers at state-owned institutions for all youth aging out of care to scholarships awarded to a select number of students. Additionally, the Federal Safe and Stable Families amendments of 2001 (P.L.107-133) established a tuition voucher program wherein youth aging out of care and those adopted after the age of 16 could receive up to \$5,000 per year for a maximum of five years for the pursuit of post-secondary education. These funds cannot be used to supplant other government financial aid. While this legislation calls for a \$60 million appropriation, it is

unknown at this time whether funds have been designated for this program in the next fiscal year.

The workgroup recommended the creation of a tuition support program for youth aging out of care. However, this was not selected as part of the Department of Public Welfare's current legislative agenda. While the federal government has now spoken on this issue, it remains entirely possible that federal funds will not be appropriated for this program for years to come. Establishment of some sort of tuition relief program for Pennsylvania's foster youth would assure continuity and ongoing availability of such resources for our youth, particularly if consistent with and thus supported by the federal legislation.

Intake

In focusing its initial study on placement services as directed by Senate Concurrent Resolution 97 of 1999, the advisory committee did not examine the programs and services that compromise the front-end of the child welfare system. Intake programs and services include the state ChildLine and county Child Abuse Hotline functions, the process by which county agencies decide whether to accept cases for service, critical interventions including emergency custody and detention of children, providing shelter care or other emergency housing needs, initiating court action and making referrals to other agencies for assistance. Intake programs and services are important because they are the parts of the system that members of the public first and most frequently engage with questions about services or concerns about the well-being of an individual child. Anecdotally, child welfare work is replete with stories of reporters of abuse receiving no response and of workers removing children from their families precipitously or without cause. Most child welfare professionals acknowledge that intake decisions are among the most difficult they are required to make, because evidence is often scant and their decisions impact the safety and well-being of children.

The public needs to feel certain that their calls for service to and the protection of children will be answered - and answered well. Further study of intake programs and services is warranted to ensure that the following components are effective in the children and youth services delivery system.

- (1) Timeliness of response and follow-up
- (2) The quality and process of decision-making
- (3) The training, supervision and support of intake workers
- (4) Interviewing skills and processes
- (5) Collaboration with law enforcement and other collateral contacts

Visitation Between Children and Their Families

Pennsylvania regulations require children living in out-of-home care to be provided opportunities to visit with their parents. However, the child welfare system does not effectively factor the impact of distance between the child's placement and the child's family on both visitation and reunification. Another frequently-cited problem for parents and foster parents concerns transportation, such as the lack of a vehicle or public transportation, which has an impact on a parent's employment, opportunities to participate in significant events such as school activities and medical appointments and facilitating visitation with incarcerated parents.

Sibling placement and visitation issues also need study. No provision is made in law or regulation for frequency of sibling visits or for contacts with other family members. When siblings need to be removed from their families and placed in foster care, best practice suggests that they be placed in the same foster home unless there are specific reasons to place them separately (i.e., there is a history of abuse or some other problem in their relationship with each other). Yet frequently siblings are separated due to the lack of available foster homes that are willing and able to accept sibling groups. Sibling visits must then be coordinated between different foster homes and even different public and private agencies. Also, the siblings who are not placed in foster care (e.g., those who continue to live at home or with other family relatives) should have opportunities to visit with siblings living in placement. Finally, in many cases visits with other extended family members can ameliorate the effects of separation.

Agencies need to build their capacity to facilitate sibling placements and visitation. More data and study are needed on the opportunity and frequency of visits with parents, siblings and other family members. As noted in the chapter on Placement Services, placement decisions might include consideration of proximity to family, friends and schools with which the youth is familiar. In addition, further discussion is needed regarding whether children should be placed in foster homes in their own neighborhood or community and whether children should be permitted to remain in their school even if moved to a different school or school district. Some jurisdictions require placements to occur within a maximum number of miles from a child's home. These suggestions reform for reform merit additional study.

Access to Health Care

Children in foster care and other out-of-home placements must have their health care needs met by the public system of care rather than by their family of origin. This system includes public and private child welfare agencies, various insurance coverages, managed care, public medical assistance programs and the entire community of health care providers. The widely-reported national crisis in

health care has a profound effect on children and families involved in the children and youth services delivery system. Foster parents and others with whom children are placed often have problems in obtaining coverage, identifying providers of care and maintaining continuity of care for children. A birth family's difficulty in accessing health care services might itself result in a child being removed from that family's care. Many youths are placed in facilities outside the Commonwealth because of their medical, developmental or behavioral health needs, limiting their access to their families, caseworkers and advocates.

The advisory committee noted the following topics for future consideration in the service delivery system for physical and behavioral health care.

- (1) The role of foster parents in the provision of and consent to care
- (2) Foster parent's need for and access to medical and other health-related information about the child
- (3) Difficulties and delays in the assignment of primary care physicians
- (4) Continuity of medical care, particularly after changes in placement and upon reunification
- (5) The care of medically fragile children and others who need services from multiple systems of care, funding streams or insurance coverages
- (6) The capacity of service providers within the Commonwealth to provide care for children who need special placements

Out-of-State Placement

The advisory committee recommended further study of the use of and reasons for out-of-state placements of dependent youth. Many Pennsylvania youths are placed in residential and institutional settings in Utah, Oklahoma, Florida, Texas and Virginia, among other states. These placements are said to occur to access specialized treatment programs for such behaviors as sexual acting-out, aggression and fire-setting, and for the care, treatment and residence of children with developmental disabilities. Concerns regarding out-of-state placement include the following.

- (1) The lack of appropriate treatment facilities in Pennsylvania
- (2) The high costs of care for out-of-state placements
- (3) Whether the inadequacy of in-state funding supports contributes to the problem
- (4) Restraint issues and other conditions of confinement in the out-of-state institutions
- (5) Use of locked facilities
- (6) Length of stay in facilities
- (7) Distance from family, county social workers, advocates and the court

- (8) The arrest of youths placed in other states for behaviors that caused the placement (e.g., a youth is arrested for an assault which occurs in a mental health facility where he was placed for treatment to address aggressiveness)

The state should continue to explore ways to reduce the use of out-of-state placements and increase in-state capacity. Additional analysis is needed regarding the problems and delays in the operation of the Interstate Compact and the agreements which the several states use to interact on interstate child welfare cases.

Legal Status of Children Age 18 and Older

With the passage of the Federal Foster Care Independence Act of 1999, much attention is currently focused on the needs of older youths, especially those who are preparing to leave the foster care system. Child welfare systems must ensure that youths are prepared for independent living and participation in the workforce. Unfortunately, the advisory committee heard numerous anecdotal accounts of youths not being fully served during placement and in anticipation of their leaving the system. As previously introduced in this report, other issues concerning this population that need further consideration include improved independent living programs, travel and driving needs of older teens, ways to promote high school attendance, the need for improved job training opportunities and tuition assistance for post-secondary education. Additionally, medical consent for and care of the young children of adolescents and teens in placement deserves consideration.

Managed Care

The impact, benefits and problems of the Commonwealth's move to managed care (i.e., Health Choices) for the provision of health care in child welfare cases should be studied as its expansion proceeds. The advisory committee noted that our children and youth services delivery system has not yet asked the fundamental question of whether managed care is working. Elsewhere in the country, principles of managed care have been introduced into the provision of child welfare services, such as in foster care performance measures and performance-based contracting, and several county agencies in Pennsylvania have explored the issue as well. These developments bear continued monitoring and planning.

Outcome Measures and Capacity Benchmarks

Adopted in part from the business sector, outcome measurement has entered child welfare practice as a method of reviewing and improving performance. For example, the Federal Child and Family Services Reviews (CFSR) are a new form of federal oversight of state performance in cases involving child abuse, neglect, state-supervised foster care and the adoption of foster children. CFSRs examine several general outcomes related to children's safety, permanency and well-being, as the following list demonstrates.

Safety

- (1) Children are protected from abuse and neglect.
- (2) Children are safely maintained in their homes whenever possible and appropriate.

Permanency

- (3) Children have permanency and stability in their living situations.
- (4) The continuity of family relationships is preserved for children.

Well-Being

- (5) Families have enhanced capacity to provide for their children's needs.
- (6) Children receive appropriate services to meet their educational needs.
- (7) Children receive appropriate services to meet their physical and mental health needs.

With these outcomes the federal child welfare authorities have also issued a set of measures and performance expectations so that the entire nation's state and local child welfare systems can be evaluated and steps can be taken to improve the actual performance of the systems. The advisory committee recommends that Pennsylvania's children and youth services delivery system increase its ability to evaluate itself through the expanded use of outcomes measures such as CFSR, data collection and data analysis, as well as with capacity and performance benchmarks.

Needs-Based Budget Process and Funding Support

The advisory committee learned that many of the private social service agencies providing placement, case management and in-home services for children and families find themselves needing to raise private funds to supplement the public dollars they receive in order to pay for the full costs of the care and services they provide. This situation is complicated by contractual and regulatory requirements for mandated services and by the increased burdens of cross-system work. The Commonwealth's needs-based budgeting process is supposed to

respond to emerging or changing needs including increases in the costs of care. Similar concerns were raised in the Legislative Budget and Finance Committee report entitled “Pennsylvania’s Children and Youth System: A Performance Audit Pursuant to House Resolution 426 (1999),” at pages 84-98. The advisory committee recommends further study to explore the provision to county agencies and private providers of the full costs of care and to determine if there are violations of law or legislative intent occurring in the administration of the needs-based budget process.

Neglect

Child neglect is a phenomenon that warrants special consideration by legislators and child welfare professionals. Many cases of child abuse could have been prevented if signs and indicators of neglect were recognized and responded to earlier. Prevention services can often resolve issues of neglect before they deteriorate to more harmful conditions. The insidious nature and effects of neglect are often difficult to observe, as they are often manifested only over long periods of time or are mislabeled as other causes of conditions. Neglect cases are difficult to litigate in court, because of the intensive fact-gathering needed as well as challenges of proof and subjectivity. Pennsylvania’s failure to characterize or count some forms of neglect as child abuse under its Child Protective Services Law is believed by some to impact service planning and decisions about whether and how to intervene in individual cases, as well as to have systemic effects on budgeting, staffing and access to funds under the Federal Children’s Justice Act (CJA) and Child Abuse Prevention and Treatment Act (CAPTA). By contrast, it is feared that making more cases subject to the definition of “child abuse” may overwhelm an already burdened system of care and protection. The Commonwealth now makes provision in 23 Pa.C.S. Chapter 63 for General Protective Services investigations and service provision, but state data on neglect are not extensively collected or widely analyzed.

Overall Administration of the Children and Youth Services Delivery System

The advisory committee identified, but did not have time to explore in depth, numerous and diverse issues involved in the administration of the children and youth services delivery system. The following topics are recommended for further study.

- (1) Expanding services and capacity to address multi-cultural and multi-lingual families and their needs
- (2) How to build a system that is focused on and controlled by the needs of the child (i.e., how to have “the money follow the child” rather than require the child and family to conform to the specifications of categorical funding streams and agency differences)

- (3) Improving efforts to recruit, train, support and retain both foster parents and agency staff
- (4) The need for interaction with and education of the community at large, including the role of the public in providing for the safety and well-being of children and families, the need for public funding and other supports
- (5) The important mission served by the system, its employees and other participants

Finally, in viewing the children and youth services delivery system comprehensively, the advisory committee confronted some large or overarching issues which challenge the system's operation and effectiveness and were left with more questions than answers. Some members asked whether the system is being asked to do too much, given the extent and depth of societal problems beyond its control. Poverty, the lack of jobs and the costs of health insurance all have affect family stability and seem to visit their problems on the children and youth services delivery system. The following questions were asked.

- (1) Is the definition of dependency too broad?
- (2) Is the system too large to be effective?
- (3) Are we expecting too much or too little from our child welfare community?

Some members looked pointedly to supposed deficits in other public and private systems of care, from education to physical and mental health to substance abuse treatment and more. Others suggested that the system is not large enough, that if the children and youth services delivery system is a "safety net" and if some children are being harmed or their development impaired, then the system should be doing more. Further analysis should determine the exact role of the children and youth services delivery system: should it be a "last resort," protecting or correcting the problems that other systems may have created or failed to resolve, or should it focus on improving child well-being before and after the child becomes a subject of the system's intervention?

With our children and youth services delivery systems serving a still-growing number of children and families, the need remains large. Our children deserve a system of care that is committed to and delivers quality service, a system that is accountable to the public for its performance, and a system that is honest to its own needs and capacity.

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APPENDIX

Senate Concurrent Resolution No. 97 of 1999 287

Senate Concurrent Resolution No. 114 of 2001 291

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 97

Session of
1999

INTRODUCED BY DENT, O'PAKE, JUBELIRER, CONTI, EARLL, COSTA,
STAPLETON, MOWERY, WHITE, SALVATORE, TARTAGLIONE, BELL,
GERLACH, WAUGH, SCHWARTZ, MELLOW, HART, BOSCOLA, SLOCUM AND
KASUNIC, SEPTEMBER 23, 1999

AS AMENDED, HOUSE OF REPRESENTATIVES, NOVEMBER 16, 1999

A CONCURRENT RESOLUTION

1 Directing the Joint State Government Commission to establish a
2 task force to study issues relating to the Commonwealth's
3 children and youth services delivery system ~~on an ongoing~~ ←
4 ~~basis~~ and to make recommendations to the General Assembly.

5 WHEREAS, The Commonwealth's children and youth services
6 delivery system is a joint responsibility of the Department of
7 Public Welfare and county government; and

8 WHEREAS, Each county is responsible for developing and
9 administering a program of services designed to treat and
10 prevent child abuse, neglect and exploitation; and

11 WHEREAS, It is anticipated that changes will continue to
12 occur in the children and youth services delivery system and in
13 the dynamics of children's issues in the future; and

14 WHEREAS, The mission of children and youth services, to first
15 serve those children most at risk of abuse, neglect and
16 exploitation, is difficult to fulfill because of the severity of
17 child abuse cases and the escalating incidence of child sexual

1 abuse cases; and

2 WHEREAS, Fulfilling this mission is further complicated by
3 increasing caseloads, which include services to parents and
4 children to enable children to remain in their homes and
5 communities, placement services for children who cannot live
6 with their birth family, adoption services, assistance to
7 provide a permanent legal family for any child who cannot be
8 returned to a birth family and any service or care ordered by
9 the court for children; and

10 WHEREAS, The Legislative Budget and Finance Committee
11 recently released the results of a performance audit on children
12 and youth agencies in this Commonwealth which provided a
13 comprehensive review of the children and youth services delivery
14 system and contained recommendations regarding the effectiveness
15 of the operation and management of the system in meeting
16 statutory and regulatory responsibilities for at-risk children
17 and families; and

18 WHEREAS, There is a need for a comprehensive bicameral and
19 bipartisan ongoing review of issues relating to the delivery of
20 children and youth services to ensure that these services meet
21 the needs of at-risk children and families; therefore be it

22 RESOLVED (the House of Representatives concurring), That the
23 General Assembly direct the Joint State Government Commission to
24 establish a task force of four members of the Senate and four
25 members of the House of Representatives to undertake an ongoing
26 study of the children and youth services delivery system in this
27 Commonwealth in order to ascertain whether it is meeting the
28 needs of at-risk children and families and, if it is not meeting
29 those needs, to recommend appropriate corrective measures; and
30 be it further

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- 2 -

1 RESOLVED, That the President pro tempore of the Senate and
2 the Minority Leader of the Senate, the Speaker of the House of
3 Representatives and the Minority Leader of the House of
4 Representatives each appoint two members to the task force; and
5 be it further

6 RESOLVED, That the initial area of task force review be
7 placement services for children who cannot live with their birth
8 family; and be it further

9 RESOLVED, That the task force prioritize other issues dealing
10 with children and youth services and address them accordingly;
11 and be it further

12 RESOLVED, That the task force is authorized to create an
13 advisory committee to assist the task force, composed of
14 individuals deemed appropriate by the task force; and be it
15 further

16 RESOLVED, That the task force, from time to time, BUT NOT
17 LATER THAN TWO YEARS AFTER THE ENACTMENT OF THIS RESOLUTION,
18 CONCLUDE ITS STUDY AND present its findings and recommended
19 legislation to the General Assembly. ←

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 114 Session of
2001

INTRODUCED BY DENT, O'PAKE, HELFRICK, LEMMOND, M. WHITE,
D. WHITE, ERICKSON, LAVALLE, WAUGH, ORIE, WOZNIAK, MOWERY,
THOMPSON, TARTAGLIONE, KITCHEN AND BOSCOLA, OCTOBER 1, 2001

REFERRED TO AGING AND YOUTH, OCTOBER 1, 2001

A CONCURRENT RESOLUTION

1 Directing the task force established by Senate Resolution No.
2 97, Printer's No. 1515 (1999) to conduct its study and
3 present its findings and recommendations by November 30,
4 2002.

5 WHEREAS, Senate Resolution No. 97, Printer's No. 1515 (1999),
6 directing the Joint State Government Commission to establish a
7 task force to study issues relating to the Commonwealth's
8 children and youth services delivery system and to make
9 recommendations to the General Assembly, was adopted by the
10 General Assembly on December 1, 1999; and

11 WHEREAS, Senate Resolution No. 97 directed the task force to
12 conclude its study and present its findings and recommended
13 legislation to the General Assembly no later than two years
14 after the enactment of the resolution; and

15 WHEREAS, The task force intends to report on the status of
16 the study to the General Assembly no later than December 1,
17 2001; and

18 WHEREAS, The task force, upon the recommendation of the

1 advisory committee formed under Senate Resolution No. 97,
2 requests, for the purposes of concluding its study and
3 presenting its findings and recommended legislation to the
4 General Assembly, an extension to November 30, 2002; therefore
5 be it
6 RESOLVED (the House of Representatives concurring), That the
7 task force conclude its study authorized by Senate Resolution
8 No. 97, Printer's No. 1515 (1999) and present its findings and
9 recommended legislation to the General Assembly by November 30,
10 2002.