



LEADERSHIP AND CHILD WELFARE SYSTEMS

THE ROLE OF STATE LEGISLATORS

NATIONAL
CONFERENCE
of
STATE
LEGISLATURES

October 2008

Many of our key initiatives as a nation have involved confronting challenges that put children at risk. The abolition of child labor, the guarantee of education for children with special needs, and the establishment of the juvenile justice system, for example, were a national recognition that to protect children is to invest in the future. Today, one of the areas of greatest challenge is strengthening and stabilizing services to a population that may be at more risk than any other: children served by state child welfare systems.

State legislators have critical roles to play in supporting greater stability for child welfare agency leadership and determining the policy priorities for state child welfare systems. Legislators support stable leadership when they engage with agency leaders in child welfare system reform efforts, foster a collaborative environment for moving toward reform and hold leaders accountable for achieving system reform goals. They set policy priorities by crafting legislative initiatives, providing oversight and making funding decisions through the budget process. Legislators also are an important channel through which child welfare agency administrators hear from constituents about their priorities, concerns and areas of satisfaction regarding the child welfare system. Legislative involvement in child welfare is as important now as ever, given the costs that states incur when children are not well served.

This report discusses those costs, the importance of the Child and Family Services Reviews (CFSRs) as a tool for legislators in assessing child welfare system performance, and the role of legislator-agency collaboration in bringing about system improvement through the CFSR process.

Facing the Costs of Abuse and Neglect

Though legislators are responsible for setting the vision and policy agenda across state government, there is perhaps no area in which legislative engagement and oversight are more critical than in child welfare. State child welfare systems are a relatively small part of state governments, but their importance is disproportionate to their size because of the lasting human toll of child abuse and neglect. A 2008 summary of the most current research on the effects of abuse and neglect, prepared by the Child Welfare Information Gateway,¹ makes those clear:

- Abused and neglected children are at least 25 percent more likely to experience problems such as delinquency, teen pregnancy, low academic achievement, drug use and mental health problems.²
- According to a National Institute of Justice study, abused and neglected children were 11 times more likely to be arrested for criminal behavior as a juvenile, 2.7 times more likely to be arrested for violent and criminal behavior as an adult and 3.1 times more likely to be arrested for one of many forms of violent crime (juvenile or adult).³
- Abused and neglected children are more likely to smoke cigarettes, abuse alcohol or take illicit drugs during their lifetimes.⁴ According to a report from the National Institute on Drug Abuse, as many as two-thirds of people in drug treatment programs reported being abused as children.⁵

Child and Family Services Reviews at a Glance

- Congressionally authorized review of state child welfare systems.
- The first round of on-site reviews was conducted from 2000 to 2004, and the second round runs from 2007–2010; administered by the Central and Regional Offices of the Children’s Bureau, U.S. Department of Health and Human Services.
- States conduct their own Statewide Assessment with support from the federal government and submit it to the Children’s Bureau 60 days before the on-site review.
- Federal and state teams conduct an on-site review of three sites in the state. The teams examine outcomes for a sample of children and families served by the state child welfare agency, including interviewing both children and families engaged in services, and community stakeholders such as court personnel, community agencies, foster families and caseworkers.
- States prepare a Program Improvement Plan to develop or enhance policies, training and practice identified as needing improvement.
- Federal funds are withheld if a state does not successfully complete its Program Improvement Plan.

Child Welfare Outcomes Assessed by the Reviews

- Safety: Children are protected from abuse and neglect and are safely maintained in their homes whenever possible and appropriate.
- Permanency: Children have permanency and stability in their living situations and continuity in their family relationships and connections.
- Child and family well-being: Families are better able to provide for their children’s needs, and children are provided services that meet their educational, physical health and mental health needs.

How Performance Is Assessed Through the Reviews

- Statewide safety and permanency data indicators are compared with national standards.
- Qualitative information on state performance is collected through reviews of actual case records and interviews with children, families and others in regard to safety, permanency and well-being outcomes.
- State performance is evaluated with regard to how well critical components of the child welfare system function (“systemic factors,” such as the agency’s responsiveness to the community and the training of child welfare staff).
- More information about the reviews is available at www.acf.hhs.gov/programs/cb/cwmonitoring/index.htm#cfsr.

- Children placed outside their homes because of abuse and neglect have lower cognitive capacity, language development and academic achievement.⁶
- Children who experience rejection or neglect are more likely to develop antisocial traits as they grow up; borderline personality disorders and violent behavior are both associated with having been neglected as a child.⁷
- Children who are abused are more likely to become abusive parents themselves; it is estimated that approximately one-third of abused and neglected children will eventually victimize their own children.⁸

Clearly, abuse and neglect have permanent and damaging effects on children's well-being and prospects for success. But beyond limiting children's chances in life, shortcomings in state child welfare systems have broader economic consequences for state governments, including increased governmental outlays, legal jeopardy and financial penalties.

Governmental Expenditures

The effects of child abuse and neglect noted above result in enormous direct and indirect costs to society. Direct costs include the cost of the child welfare system itself and increased expenditures by the judicial, law enforcement, health and mental health systems.⁹ A 2001 report by Prevent Child Abuse America estimates these costs at \$24 billion per year nationally.¹⁰

Indirect costs, the longer term economic consequences of child abuse and neglect, include those associated with juvenile and adult criminal activity, mental illness, substance abuse and domestic violence; loss of productivity due to unemployment and underemployment; the cost of special education services; and increased use of the health care system.¹¹ Prevent Child Abuse America estimated these costs in 2001 at more than \$69 billion per year.¹²

Class Action Lawsuits

A Child Welfare League of America study published in October 2005 identified child welfare class action lawsuits filed in 32 states between 1995 and 2005.¹³ In 30 of the 32 states, child welfare agencies agreed to settle the lawsuits by agreeing to specific terms approved by the courts. At the time the report was published, there were active settlement agreements (or consent decrees) in 21 states; agreements had ended in 11 states.

Once having entered into a settlement agreement, the state is bound by the terms of that agreement for as long as the court deems necessary. The length of time that states are actively engaged in consent decrees depends on the state's response to the reforms required in the agreement.

Not only are these lawsuits expensive and time-consuming, but they take the control of the child welfare system out of the hands of the state child welfare agency and legislature and tie systemic change and reform to court-approved benchmarks. This approach to reform may limit broader reform efforts or systemic reforms deemed necessary by the state.

Financial Penalties

The CFRs are federal reviews of state child welfare systems. These reviews are designed to be a collaborative effort between state and federal governments to assess the quality of services and supports provided to children and families through state

Other Penalties

Child welfare penalties are designed to ensure conformance with federal law for the portion of state child welfare systems funded with federal resources. Other possible child welfare financial penalties include those related to the following:

- IV-E Foster Care Eligibility Reviews (for more information, see http://www.acf.hhs.gov/programs/cb/laws_policies/policy/im/2001/im0111a1_2007.pdf)
- Multiethnic Placement Act of 1994 and Interethnic Adoption Provisions of 1996 (for more information, see <http://www.acf.hhs.gov/programs/cb/pubs/mepa94/mepachp2.htm>)
- Adoption and Foster Care Analysis and Reporting System (AFCARS) (for more information, see http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/updates_delete.jsp)

child welfare systems. The reviews identify strengths and areas needing improvement in state programs and systems, focusing on outcomes for children and families in the areas of safety, permanency and child and family well-being. Following a review, states develop and implement Program Improvement Plans (PIPs), as needed. The Children's Bureau; Administration on Children, Youth and Families (ACYF); Administration for Children and Families (ACF); U.S. Department of Health and Human Services (HHS), administers the reviews.¹⁴

Federal funds are withheld based on the number of CFSR outcomes and systemic factors for which a state does not achieve substantial conformity (see the box "Child and Family Services Reviews at a Glance"). These penalties are suspended while a state is implementing the PIP to address the systemic and practice issues associated with not meeting substantial conformity. However, if the Children's Bureau determines that a state failed to submit status reports, or that a State is not making satisfactory progress toward achieving the PIP goals and action steps in a timely manner, then the suspension of penalties ceases and withholding of funds begins (45 Code of Federal Regulations §§1355.36[e][2][i] and [ii]).¹⁵ When a state completes all requirements of the PIP related to an outcome or systemic factor, associated penalties are rescinded.

The first round of CFSRs was completed in 2004, and all 50 states, the District of Columbia and Puerto Rico were required to enter into PIPs. (The second round of reviews is taking place from 2007 through 2010.) To date, the CB has determined that certain states did not successfully complete their round-1 PIPs. As a result, federal funds have been repaid to the federal government by these states in connection with the CFSR process. All 32 States reviewed so far in round 2 of the CFSRs have been assessed penalties for not achieving substantial conformity with national standards; those penalties are on hold while states develop and implement PIPs to address areas of nonconformity.

Assessing Movement Toward Reform Through the CFSRs

Because of these human and financial costs, many legislators view child welfare reform as an urgent human and fiscal priority. The return on investments in the child welfare system (including investments of time, attention and resources) is measured in both a reduction in the costs noted above and, conversely, an increase in positive contributions by healthy citizens (employment, payment of taxes, civic engagement and others).

To bring about systemic reform, state agencies need the involvement and leadership of State legislators. Many legislators are seeking objective assessments of the performance of their state child welfare systems so that they can provide proper oversight. They are working with child welfare agencies to establish long-term, systemwide goals that provide the institutional stability that child welfare systems need to weather the short-term crises that otherwise might lead to ill-advised stop-gap measures. And they are determining how best to allocate scarce resources to have the greatest effect on child outcomes.

In working with state child welfare agencies to bring about reform, legislators can help ensure accountability for results, consistency of focus and the resources needed to fund reform initiatives. To carry out that leadership role, it is critical that they have the best information available. Rather than relying only on media reports, anecdotal evidence or input from constituents, many legislators are aware of the range of resources available for understanding overall child welfare system performance. Some tools—such as state audits, reports from appointed child welfare ombudspersons and investigations by legislative task forces—cannot always provide a holistic view of child welfare systems. For that reason, the CFSRs are a particularly important resource because they offer a broad overview of how state child welfare systems are functioning. Equally important, the CFSRs are conducted in partnership with the state child welfare agency and other key state stakeholders.

The CFSRs are designed to offer an objective assessment of state systems, providing information on the key areas on which states need to focus to improve services to children and families. Several characteristics of the reviews make them important resources for legislators in overseeing child welfare policy and practice:

- **National benchmarks:** The reviews offer a set of national standards against which agency performance is assessed.
- **A framework for reform:** The state is required to develop a PIP to improve conditions for children and families served by its child welfare system. The state must address in its PIP the outcomes, systemic factors, and national standards found to be in nonconformity during the on-site review.
- **Information on the state's progress in improving conditions for children and families:** The state is required to measure and report quarterly on its progress in achieving the goals outlined in its PIP, which must be completed within two years of the plan's approval. This ensures that states focus on achieving improved child and family outcomes, not simply on enhancing policies or procedures.
- **Emphasis on both results and process:** The reviews provide information about both outcomes for children and families and the underlying systemic factors that affect those outcomes.

In fact, the seven CFSR systemic factors provide a framework for understanding the “infrastructure” that is needed to improve outcomes for children and families in the long term. Strengthening those underlying systemic factors is key to changing how states do business with respect to children and families. The CFSRs assess how well these systemic factors are working in each state¹⁶:

- **Statewide information system:** Assesses whether the state is operating a statewide information system that can identify key data on each child who is currently in or has recently left the foster care system.
- **Case review system:** Examines the state's process for ensuring that each child has a written case plan, that the status of each child served is reviewed regularly, that permanency hearings happen in the required time frames, that the state has a process for terminating parental rights and that foster parents, pre-adoptive parents and relative caregivers are allowed to participate in hearings held about the child.
- **Quality assurance system:** Assesses whether the state has implemented standards for ensuring the provision of quality child welfare services and has an identifiable quality assurance system for evaluating and reporting on the quality of those services.
- **Staff and provider training:** Checks whether the state has a staff development and training program that ensures both initial training of new staff and ongoing training for experienced staff, and a program for training foster parents, adoptive parents and staff of state-licensed or -approved facilities providing foster care.
- **Service array and resource development:** Looks at whether the state has in place an adequate array of individualized services, throughout the state, for assessing the strengths and needs of children and families and then addressing areas of need. These services should be designed to enable children to remain safely with their parents when possible or to achieve permanency if they are in foster care or pre-adoptive placements.
- **Agency responsiveness to the community:** Checks whether the agency consults with key stakeholders and includes their concerns in its ongoing planning and whether it coordinates its services with those of other federal programs that serve the same population of children and families.

Questions About the Child and Family Services Review Process

Throughout the Child and Family Services Review (CFSR) process, state legislators can engage with agency leaders regarding review results and the steps required to achieve key goals of the state's Program Improvement Plan (PIP). Legislators can use the following questions, for example, to engage with agency leaders about the overall review process and each review stage:

- **Status of the CFSR**
 - At what point is the state in the CFSR cycle?
 - What type of legislative support does the agency need during the current phase of the CFSR or PIP process?
 - How might legislators get involved in the CFSR or PIP at this stage?
 - With whom should I/my office/other lawmakers coordinate regarding our involvement?
- **Statewide Assessment**
 - What did the state learn through its last Statewide Assessment and PIP? How do those findings compare with the findings of the current Statewide Assessment?
 - How is the agency making information about the Statewide Assessment available to agency staff, stakeholders, the media and the public?
 - How is the agency using the Statewide Assessment to engage others in child welfare reform efforts?
- **Onsite Review/Exit Conference**
 - Which community and professional stakeholders will the agency invite to participate in the onsite review, either by serving as state review team members or by providing input about the state child welfare system?
 - Would legislative involvement in the statewide exit conference be useful?
 - How can legislators best work with state child welfare staff after attending an onsite review exit conference?
- **Final Report**
 - What were the most important findings of the report? If the report is not yet available, what were key preliminary findings?
 - What are the agency's plans for sharing the review findings, if these are available?
- **PIP**
 - What type of legislative support does the agency need during the PIP process?
 - How might the agency periodically update legislators on its PIP progress and the type of legislative support needed?
 - How might legislators get involved in the PIP process?
 - What happens if the state is not successful in achieving the necessary improvements?

- **Foster and adoptive parent licensing, recruitment and retention:** Assesses whether the state has implemented accepted national standards for foster homes and child care institutions, complies with federal requirements for criminal background clearances for these placement options, has a process for recruiting potential foster and adoptive families who reflect the state's ethnic and racial diversity and has a process in place for using cross-jurisdictional resources that facilitate timely adoptive or permanent placements for waiting children.

By providing oversight and support to the child welfare agency in strengthening these systemic factors through the state's PIP, legislators can help to improve the long-term CFSR outcomes for which the agency is responsible (see the box "Child and Family Services Reviews at a Glance"). The focus on building long-term capacity may help stabilize child welfare agencies in a variety of ways, including promoting continuity in agency leadership. In turn, stable leadership helps to further ensure that there is a consistent agenda for state reform efforts over time.

Moving Toward Child Welfare Reform Through Legislature-Agency Engagement

In assessing a state's progress in its reform efforts, legislators can use the CFSRs to work closely with state child welfare agencies in addressing critical areas of need. To date, most states have gone through two rounds of CFSRs. As a result, today state agencies are more prepared than ever to work with legislators in using the review results to bring about positive change. The following are a few ways that legislators can become involved with the CFSR process.

- Work with the child welfare agency to develop systems for staying apprised of the status of the CFSR and PIP. Legislators, for example, can ask for regular briefings on the initial findings of the CFSR during the Statewide Assessment and following the CFSR on-site review.
- Access the latest data on the CFSRs at the CFSR website, available at <http://www.acf.hhs.gov/programs/cb/cwmonitoring/index.htm#cfsr> (scroll down to "Reports and Results of the First and Second Rounds of the Child and Family Services Reviews").
- Coordinate with the child welfare agency about the possibility of attending the statewide exit conference, which is held at the conclusion of the CFSR on-site review. At the exit conference, the review team leader provides an overview of the preliminary review findings, discusses next steps in the review process and raises and clarifies review-related issues.
- Participate in developing the PIP. As noted earlier, after each state's review, the state conducts program improvement planning in consultation with a broad array of stakeholders, who can include legislators or legislative staff.
- Request updates from the state child welfare agency administrator on state progress in making improvements through the PIP. Once the agency has completed its PIP, legislators might ask for a summary of the PIP and updates on PIP progress. While state agencies handle PIP reporting in different ways, one option is to use the ready-made summary format for sharing PIP information available on the Children's Bureau website at <http://www.acf.hhs.gov/programs/cb/cwmonitoring/index.htm#cfsr> (scroll down to "Engaging State Legislators in the Federal Child and Family Services Reviews: An Information-Sharing Tool for Child Welfare Agency Administrators").

Staying Informed About the Child and Family Services Reviews

Some state legislatures have used the Child and Family Services Review (CFSR) process as the basis of their ongoing reporting on and monitoring of child welfare system performance. In 2007, for example, the Michigan legislature passed a statute requiring the state child welfare agency to report on the progress of the CFSRs on January 1 and July 1 each year to the relevant legislative committees and the state budget director. In 2001, the California legislature enacted the Child Welfare System Improvement and Accountability Act, which redefined how the state Department of Social Services holds the 58 county child welfare agencies accountable for results and performance. The system established through the act resembles the CFSRs in many ways.

Focusing on the Long-Term Through Legislative Leadership

In engaging with agencies about the CFSRs to promote child welfare reform, a key role of legislators is to foster continuity in state child welfare systems over time. During periods of transition, legislative engagement can ensure that the goals and strategies of long-term state reform efforts are maintained. When a child dies, legislative engagement helps to ensure the maintenance of a long-term focus on real child welfare reform rather than on short-term solutions, sometimes driven by emotional responses, that do not contribute to overall system change. By supporting a consistent focus on systems change, legislators can help to bring greater stability to agency leadership, while requiring accountability for improving outcomes for children and families.

This publication was produced for the Children's Bureau by the National Conference of State Legislatures under subcontract to JBS International, Inc., which manages the provision of technical assistance to state legislators through the Child Welfare Reviews Project, contract no. GS-10F-0285K, delivery order no. 67970, from the Administration for Children and Families, U.S. Department of Health and Human Services.

Notes

1. Child Welfare Information Gateway, *Long-Term Consequences of Child Abuse and Neglect* (factsheet, available at www.childwelfare.gov/pubs/factsheets/long_term_consequences.cfm#society, 2008).
2. B.T. Kelley, T.P. Thornberry, and C.A. Smith, *In the Wake of Childhood Maltreatment* (Washington, D.C.: National Institute of Justice, 1997); www.ncjrs.gov/pdffiles1/165257.pdf.
3. D.J. English, C.S. Widom, and C. Brandford, "Another look at the effects of child abuse," *NIJ Journal* 251 (2009): 23–24.
4. S.R. Dube et al., "Childhood abuse, household dysfunction and the risk of attempted suicide throughout the life span: Findings from the Adverse Childhood Experiences Study," *Journal of the American Medical Association* 286, (2001): 3089–3096.
5. N. Swan, "Exploring the role of child abuse on later drug abuse: Researchers face broad gaps in information," *NIDA Notes* 13, no. 2 (1998); www.nida.nih.gov/NIDA_Notes/NNVol13N2/exploring.html.
6. U.S. Department of Health and Human Services, *National Survey of Child and Adolescent Well-Being: One Year in Foster Care Wave 1 Data Analysis Report*, 2003 (Washington, D.C.: U.S. Department of Health and Human Services, 2003); www.acf.hhs.gov/programs/opre/abuse_neglect/nscaw/reports/nscaw_oyfc/oyfc_title.html.
7. A.N. Schore, "Early relational trauma, disorganized attachment, and the development of a predisposition to violence," in M. F. Solomon and D. J. Siegel (eds.), *Healing Trauma: Attachment, Mind, Body, and Brain* (New York, N.Y.: Norton, 2003).
8. Prevent Child Abuse New York, *The Costs of Child Abuse and the Urgent Need for Prevention* (Albany, N.Y.: Prevent Child Abuse New York, 2003); <http://pca-ny.org/pdf/cancost.pdf>.
9. Child Welfare Information Gateway, *Long-Term Consequences of Child Abuse and Neglect*.
10. Prevent Child Abuse America, *Total Estimated Cost of Child Abuse and Neglect in the United States* (Chicago: Prevent Child Abuse America, 2001); http://member.preventchildabuse.org/site/DocServer/cost_analysis.pdf?docID=144.
11. Child Welfare Information Gateway, *Long-Term Consequences of Child Abuse and Neglect*.
12. Prevent Child Abuse America, *Total Estimated Cost of Child Abuse and Neglect in the United States*.
13. Child Welfare League of America, *Child Welfare Consent Decrees: Analysis of Thirty-Five Court Actions from 1995 to 2005* (Washington, D.C.: Child Welfare League of America, 2005); www.cwla.org/advocacy/consentdecrees.pdf.
14. Children's Bureau, U.S. Department of Health and Human Services, *Child and Family Services Reviews Procedures Manual* (Washington, D.C.: Children's Bureau, 2006), 1; www.acf.hhs.gov/programs/cb/cwmonitoring/tools_guide/proce_manual.htm.
15. Ibid, 109.
16. Children's Bureau, U.S. Department of Health and Human Services, *Child and Family Services Reviews Summary of Findings Form* (Washington, D.C.: Children's Bureau, 2007), 17 ff.; www.acf.hhs.gov/programs/cb/cwmonitoring/tools_guide/sumfinding.htm.



NATIONAL CONFERENCE OF STATE LEGISLATURES

The Forum for America's Ideas

National Conference of State Legislatures

William T. Pound, Executive Director

7700 East First Place
Denver, Colorado 80230
(303) 364-7700

444 North Capitol Street, N.W., #515
Washington, D.C. 20001
(202) 624-5400

www.ncsl.org

© 2009 by the National Conference of State Legislatures. All rights reserved.

ISBN 978-1-58024-577-7