



# STATE CHILD WELFARE LEGISLATION 2004

May 2005

## Introduction

State law is an important part of the foundation of each state’s response to child maltreatment. It also provides the legal framework for state legislators’ oversight of the child welfare agencies that are charged with protecting children’s safety and meeting their permanency and well-being needs. The National Conference of State Legislatures (NCSL) highlights state child welfare legislation through its *State Child Welfare Legislation* reports. This report documents significant state legislation enacted during calendar year 2004.<sup>1</sup>

A number of legislative trends that began in previous years continued in 2004. These included new laws to address children’s exposure to methamphetamine, to improve educational services to children in the child welfare system, to expedite permanency for foster children, to support foster parents and kinship caregivers, to assist youth who are aging out of care, and to promote collaboration among agencies that serve children and families.

A few areas received an unusual amount of legislative attention in 2004. Perhaps the most notable is a move to ensure that parents’ rights are protected when child welfare agencies investigate. Many of these laws were passed to comply with recent amendments to the federal Child Abuse Prevention and Treatment Act, which require that subjects of protective investigations be informed of the allegations against them and that child protective services (CPS) staff be trained in their legal duties to protect the legal rights and safety of children and families.<sup>2</sup>

State legislation in 2004 also addressed the prescription of psychotropic medication to children in custody, family involvement in case planning, and innovations in foster care, such as whole family placements and “dedicated” family homes.

Descriptions of significant state legislation appear below by issue area in alphabetical order. The appendix contains both citations and summaries of the laws discussed here.

1. The legislation described here reflects emerging issues and key legislative trends related to child welfare, about which the NCSL receives numerous requests for information from state legislators and legislative staff. The report also discusses new laws that address important issues in the child welfare field or institute substantial changes in child welfare practice or administration. The report is not intended to be an exhaustive presentation of new state child welfare legislation. Further, inclusion of the enactments herein should not be construed to mean that such enactments represent “best practice” or are in accord with federal law.

2. 42 U.S.C. 5106a (b)(2)(A)(xviii), (xix).

### Contents

Adoption.....	2
Agency Response to Reports of Maltreatment.....	2
Child Fatalities and Near Fatalities .....	2
Child Welfare Workforce.....	3
Children's Advocacy Centers.....	3
Children's Exposure to Illegal Drugs .....	3
Comprehensive System Reform.....	4
Custody Relinquishment for Mental Health Services .....	4
Education of Children in the Child Welfare System .....	4
Expediting Permanency.....	4
Family Involvement in Case Planning .....	5
Financing .....	5
Foster Care.....	5
Independent Living.....	6
Interagency Coordination and Reorganization.....	7
Kinship Care .....	7
Legal Rights of Individuals.....	8
Oversight, Studies and Evaluations.....	8
Prevention and Diversion .....	9
Privatization .....	9
Psychotropic Medications.....	10
Public Access to Proceedings .....	10
Reporting of Child Maltreatment.....	10
Appendix. Citations and Summaries of State Child Welfare Legislation, 2004.....	11

## Adoption

A few states passed laws to support adoptive families in 2004.

- Connecticut now allows families who adopt children from foster care to purchase group health insurance through a state plan.
- Florida authorized courts to waive the consent of the state agency to an adoption of a foster child if the court determines that such consent is being unreasonably withheld.
- Missouri amended its statute that provides a tax credit of up to \$10,000 for nonrecurring expenses associated with adoption of a special needs child. The cap on the cumulative amount of tax credits available during any fiscal year was raised from \$2 million to \$4 million. In the first 90 days of the fiscal year, half the cap is allocated to in-state adoptions and half the cap is allocated to out-of-state adoptions. If less than \$2 million in out-of-state credits have been claimed during the first 90 days, the remaining amount can be used for in-state adoptions. The legislature directed the state director of revenue to establish a procedure to equally apportion the cumulative amount of the tax credit among all claimants in a fiscal year.
- Rhode Island established a commission to study the benefits and supports available to adoptive families.
- South Carolina allowed the state Children's Trust Fund to award grants to promote the adoption of special-needs children in the state's custody.

## Agency Response to Reports of Maltreatment

Three states passed laws that affect how child welfare agencies or law enforcement authorities may respond to reports of child maltreatment.

- Colorado passed two such laws, one that restricts the ability of a law enforcement officer to remove a newborn, and the other to allow a county child welfare agency to enter into a safety plan with an alleged perpetrator in lieu of filing a confirmed report of child abuse.
- Indiana provided that the following cases may be classified as "indicated:" 1) significant indications of either risk of harm or past maltreatment are uncovered, and 2) the case cannot be classified as substantiated or unsubstantiated.

## Child Fatalities and Near Fatalities

In 2004, the issue of child deaths, particularly deaths resulting from maltreatment, was the subject of an unusually large number of new laws.

- Four states—Delaware, Indiana, Kentucky and Washington—passed laws that deal with child fatality reviews. Indiana created a statewide child fatality review committee. Kentucky and Washington added provisions related to the review of child deaths who were involved with the child welfare system. Delaware now requires expedited review of child fatalities due to abuse or neglect.
- Indiana, Iowa and Kansas enacted provisions governing public release of information on cases involving a child fatality or near fatality. Indiana also included a provision making it a misdemeanor to falsify child abuse records or obstruct an investigation by a child fatality review body.

- Missouri now requires that any employee or contractor of the state child welfare agency who violates a law, rule or policy of the division be dismissed if such violation results in death or serious injury.
- Tennessee requested a statistical study of violent deaths among children from infancy through age 18.

## Child Welfare Workforce

High caseloads and high rates of worker turnover continue to be major issues for state child welfare systems. Despite tight budgets, a few states appropriated funds to hire more caseworkers. One state also increased requirements related to qualifications and training.

- Alaska, Nebraska, North Carolina, and West Virginia appropriated funds for new positions to lower caseloads. In Alaska and West Virginia, the new resources were made available in response to the findings of the federal child and family services review. (Connecticut and New Jersey also appropriated funds for this purpose as part of their comprehensive system reform efforts; the activities of these two states are discussed below under “Comprehensive System Reform.”)
- Maryland created fiscal penalties if the state child welfare agency fails to fill a certain number of caseworker and supervisor positions by specific dates, in an effort to spur agency action to meet Child Welfare League of America caseload standards.
- Mississippi enacted a provision related to the qualifications, supervision and training of child protection specialists.

## Children’s Advocacy Centers

Children’s advocacy centers provide a child-friendly environment in which multidisciplinary teams of law enforcement officials, child protection staff and medical professionals can collaborate in questioning, examining and treating child victims of sexual and serious physical abuse without causing them further trauma. In 2004, a few states enacted new funding mechanisms and standards for children’s advocacy centers.

- Florida and Kansas created new trust funds for the benefit of children’s advocacy centers, funded with fees paid by defendants who are convicted of certain crimes against children. Kansas also prescribed standards for children’s advocacy centers.
- South Carolina adopted a provision that specifies the responsibilities of children’s advocacy centers, for example, requiring such centers to enter into memoranda of agreement with agencies that are involved with investigating child maltreatment and mandating written standards of care.

## Children’s Exposure to Illegal Drugs

As in previous years, a number of states passed laws to address parental production, possession or use of methamphetamine or other illegal drugs and their effects on children.

- Four states—Georgia, Iowa, Louisiana and Wyoming—enacted measures to create new criminal penalties for manufacturing or possessing methamphetamine or other illegal drugs in the presence of a child. South Dakota and Virginia amended their civil definitions of “abused or neglected child” to include a child who is present during the manufacture of methamphetamine or other dangerous drugs.
- Hawaii enacted legislation that requires the reporting of drug-affected newborns to bring the state into conformance with the federal Child Abuse Prevention and Treatment Act.

## Comprehensive System Reform

In 2004, several states, including Connecticut and New Jersey, agreed to comprehensive system reform in settlement of litigation. In Connecticut and New Jersey, the state legislatures appropriated new funding to implement the reform plans.

- Connecticut supplemented the agency's fiscal year 2004–2005 budget to fund additional caseworker, supervisor and case aide positions; to provide enhanced support for families of children returning home from residential treatment facilities; and to offer other services.
- New Jersey made statutory changes required under a comprehensive child welfare reform plan. The legislation restructured and reallocated child welfare responsibilities within the Department of Human Services, established a statewide child abuse hotline and new child welfare training academy, and required other systemic changes. To implement the reform plan, the Legislature appropriated approximately \$185 million in state and federal funds. The state child welfare agency also used the appropriated funds to add 1,000 new child welfare positions; increase payments and supports for resource families (foster and adoptive parents); and enhance substance abuse, mental health, domestic violence and housing services.

## Custody Relinquishment for Mental Health Services

In some states, in the absence of adequate health insurance coverage, parents must relinquish legal custody of their children to child welfare agencies to obtain mental health services, particularly high-cost residential treatment. Two states enacted provisions aimed at addressing this issue.

- Missouri authorized voluntary placement agreements for children in need of mental health services, under which a parent or legal guardian retains legal custody of the child.
- Virginia required a study to determine the reasons for custody relinquishment, including the development of policy options for abolishing the practice of relinquishing custody to obtain mental health services.

## Education of Children in the Child Welfare System

A few states addressed in legislation the need for better accountability and interagency coordination to meet the educational needs of children in the child welfare system.

- California adopted a measure to increase the accountability of nonpublic schools that serve children with exceptional needs.
- Florida required interagency agreements among the state child welfare agency, the state education agency and district school boards.
- Missouri required the child welfare agency and the education agency to establish procedures to facilitate the transfer of school records when placement requires a change in schools. The state also required the agency to avoid the need for school changes resulting from placement.

## Expediting Permanency

Achievement of timely permanency for children in foster care continues to be a significant challenge for many states. Four states enacted provisions to address this issue.

- Connecticut, Georgia, Missouri and Oklahoma enacted measures to establish or shorten time frames that govern the court permanency process. Missouri also included a provision intended to limit delays and continuances in dependency proceedings.

## Family Involvement in Case Planning

Most states are seeking to increase family involvement in case planning as part of their program improvement efforts under the federal child and family services reviews. Many states are increasing their use of family group decisionmaking meetings for this purpose.

- Missouri and Washington passed laws that require their state child welfare agencies to convene meetings at critical points in the life of a case to involve family members in case planning and decisionmaking.

## Financing

In the face of continuing budget problems, many states are seeking to maximize federal funding of child welfare services and to create new financing mechanisms.

- California created a Child Welfare Program Improvement Fund, consisting of donations by private sources. The Legislature also required the state child welfare agency to amend its foster care state plan to allow counties to use federal funds under Title IV-E of the Social Security Act to subsidize child care for foster parents.
- Colorado created a fund consisting of Title IV-E funds that the state receives from the federal government in reimbursement for state Title IV-E-eligible costs. The fund is to be used for specified purposes, subject to legislative appropriation.
- Hawaii created an income tax checkoff to fund various special accounts related to child welfare.
- Missouri and Utah required their state child welfare agencies to seek federal waivers and take other actions necessary to enhance federal funding for child welfare services.

## Foster Care

As in years past, many states legislated in the area of foster care. Some states sought to give foster parents and foster youth a greater voice in the system.

- Alabama and Georgia created foster parent bills of rights.
- Michigan required its child welfare agency to obtain input from foster care focus groups, which include foster youth, former foster youth, foster parents and relative caregivers, among others.
- Washington provided foster parents with the right to file complaints with the Family and Children's Ombudsman alleging retaliation or discrimination by the child welfare agency.

Two states—California and Colorado—enacted legislation to promote innovative foster care programs.

- California required county child welfare agencies, to the greatest extent possible, to use “whole family placements,” in which dependent minor foster youth and their children are placed together.

- Colorado created the “Dedicated Family Homes Pilot Program,” through which children who have significant barriers to achieving permanency are ensured access to a placement setting in which they have established a bond with a parental figure. The law provides that the state may use private gifts, grants and donations to reserve beds for specific children identified by the state and to cover certain costs of house parents who agree to operate a dedicated family home.

Other laws in this category include the following.

- Connecticut created a special category of unlicensed foster parents for short-term placements and required that caseworkers visit with children placed out of state every two months.
- Florida prohibited its Department of Children and Families from removing a foster child who has resided for at least six months with foster parents who are licensed or court-ordered custodians, when either the foster parent or custodian has applied for adoption and the application has been denied, unless ordered to do so by the court.
- Maryland required that local agencies give priority to placing a child in the jurisdiction in which his or her parent resides.
- Washington required the development of research-based policies and protocols to govern parental visitation with children in foster care.

## Independent Living

In 2004, states continued to refine laws designed to promote positive outcomes for youth who are in transition from foster care to adulthood.

- Florida specified additional actions, including developing post-high school plans for children in the ninth grade and regular staffings (periodic interagency review of cases) for children ages 13 to 17; providing youth information about the Road-to-Independence scholarship program and public assistance; and conducting independent living assessments, required of the child welfare agency and the courts to ensure children’s successful transition to adulthood.
- Kentucky authorized a homelessness prevention pilot project that offers voluntary institutional discharge planning to persons who are exiting state-operated or supervised institutions that provide mental health and foster care programs.
- Minnesota required licensed providers of independent living services to make available to youth a range of services, including counseling, educational and employment services. The Legislature also excluded from eligibility for independent living services youth who have drug or alcohol problems or a recent history of violent behaviors or mental disorders that are not being resolved through treatment.
- New Jersey included in its package of reform legislation a provision directing the state to continue providing services to youth up to age 21 who are or were in foster care, under the following circumstances:
  - The individual was receiving services from the Office of Children’s Services (OCS) on or after the individual’s 16<sup>th</sup> birthday;
  - The individual has not requested that these services be terminated; and
  - The OCS determines that a continuation of services is in the individual’s best interest and would assist the individual in becoming an independent and productive adult

- New York authorized private agencies to provide supervised independent living programs.
- Virginia authorized local departments of social services to provide independent living services.

Two states enacted legislation in the area of educational supports for youth in transition.

- Delaware authorized the use of certain state scholarship funds as matching funds under the federal Chafee Educational and Training Voucher Program.
- Vermont directed the establishment of a trust fund to provide educational grants to current and former foster youth.

## Interagency Coordination and Reorganization

Ensuring the safety, permanency and well-being of children requires the combined efforts of many stakeholders at both the state and local levels. Legislatures can play an important role in ensuring efficient and cost-effective coordination of service delivery by multiple agencies and providers. In 2004, a relatively large number of states legislated in this area.

- Colorado created fiscal incentives to promote a collaborative approach to managing service delivery at the local level.
- Connecticut created a child poverty council to develop a plan to reduce by 50 percent the number of children living in poverty in the state by July 1, 2014. The council members include legislative leaders, executive agency heads and other state officials.
- Illinois formalized in statute a commission to work across agencies to promote policies and programs to preserve and strengthen African-American families.
- Louisiana required local law enforcement authorities and local units of the state child welfare agency to enter into working agreements regarding cross-reporting of child abuse reports.
- Maine reorganized its human services system by merging the Department of Human Services and the Department of Behavioral and Developmental Services into a single Department of Health and Human Services.
- Rhode Island authorized creation of a comprehensive continuum of care for children who are in the custody of the state child welfare agency or who are at risk of being placed in such custody.
- Virginia authorized the creation of local multidisciplinary child protection teams.
- Wyoming required its Department of Family Services to develop a comprehensive plan to improve the lives of all children and families in the state.

## Kinship Care

Relatives play an important role in caring for children, both in and out of the child welfare system. A few states in 2004 enacted laws in this area.

- Hawaii and New York passed laws to allow informal caregivers to consent to a child's medical treatment, school enrollment or participation in extra-curricular activities.

- Idaho set forth in statute the circumstances under which informal caregivers may qualify as “de facto” custodians with the right to initiate proceedings for appointment of a guardian.
- Missouri now requires placement with relatives whenever a child is placed in foster care and a court has ruled that relative placement is not contrary to the child’s welfare.
- Virginia required the creation of a subsidized custody program for permanent placement of foster children with relative caregivers, subject to appropriations. Virginia also required local boards of social services to seek out kinship care options.

## Legal Rights of Individuals

Recent legislation at both the state and federal levels is intended to ensure that the preferences of individuals are considered and that their due process rights are protected during the course of a CPS investigation.

- In response to a recent amendment to the Child Abuse Prevention and Treatment Act, at least seven states amended their statutes to require that CPS workers be trained in their legal duties to protect the constitutional and statutory rights of children and families and to inform alleged perpetrators of abuse of the allegations made against them.
- Missouri enacted provisions raising the standard of proof for inclusion of a person on the child abuse central registry from “probable cause” to “preponderance of the evidence.” The legislation also requires a court to grant one change-of-judge motion filed either by a parent or by a youth age 17 or older.
- Utah enacted three measures intended to protect the rights and interests of parents involved with the child welfare system. One created an Office of Child Welfare Parental Defense and requires the state child welfare agency to accommodate the moral and religious beliefs of the families it serves. The second prohibits agencies from making recommendations about the placement or disposition of a child on the basis of a parent’s religious beliefs, lawful possession of a firearm or practice of home schooling. The third requires courts to strongly consider a parent’s preference regarding selection of a mental health therapist in termination of parental rights proceedings.

## Oversight, Studies and Evaluations

A number of states adopted provisions to enhance oversight of, or to require studies or evaluations of, the child welfare system.

- Kansas amended its confidentiality law to provide certain legislative bodies with access to child abuse records.
- Louisiana adopted a resolution to examine the state’s laws on children in foster care.
- Maryland required the state child welfare agency to begin planning for a system for evaluating outcomes of programs that serve children in out-of-home placement.
- Missouri established an Office of Child Advocate, required an independent review of state and local CPS agencies, and expressed the intent of the legislature that the Department of Social Services attain accreditation within five years.
- New York required each county to implement a child and family services plan.
- South Dakota established the Governor’s Commission on the Indian Child Welfare Act to study the state’s compliance with the act.



- West Virginia required the creation of a Citizen's Advisory Council to assist the Governor's Cabinet on Children and Families.

## Prevention and Diversion

A number of states enacted measures to support families, prevent child maltreatment and divert families from formal entry into the child welfare system.

- Arkansas specified the duties of the State Child Abuse and Neglect Prevention Board with respect to the development of family resource centers throughout the state.
- California provided for the regulation of crisis nurseries, which provide short-term respite care for families under stress, and authorized temporary placement into crisis nurseries of a limited number of children referred by county child welfare agencies.
- Illinois required a program of grants for community services to prevent the involvement of youth in the child welfare or juvenile justice systems.
- Iowa required the initiation of one or more child welfare diversion and mediation pilot projects.
- Louisiana created children and youth planning boards in each judicial district and encouraged a continuum of services to divert children and youth from the child welfare and criminal justice systems.
- Missouri required hospitals to offer to show new mothers a video on shaken baby syndrome.
- Virginia enacted an infant safe-haven law designed to prevent the unsafe abandonment of newborns.

## Privatization

Private providers have long played an important role in delivering child welfare services, including foster care, adoption and family support services. In recent years, a few states have taken major strides toward shifting to the private sector both funding and financial risk related to unforeseen increases in the volume of cases or in the intensity or duration of services. In 2004, two states enacted provisions regarding privatization of child welfare service delivery.

- Several years ago, the Florida Legislature mandated privatization of foster care and related services statewide. Lead agencies are paid a fixed sum to provide services to all children who enter the child welfare system. Because they are paid a fixed sum, these agencies bear the financial risk associated with increases in the number of children who need services. To facilitate statewide privatization of foster care, encourage providers to assume the financial risks associated with lead agency status, and prevent lead agency failure, the Legislature directed a consortium of private providers, in consultation with the state child welfare agency, to plan a statewide risk pool for the protection of eligible lead community-based care providers. Through the risk pool, contractors contribute to a fund that can be drawn upon if a contractor's total service costs exceed its payments by a stipulated percentage.
- Missouri required its agency to contract with qualified providers for a comprehensive system of service delivery for children and families, excluding the child abuse hotline, initial child abuse investigations and initial family assessments.

## Psychotropic Medications

Legislators in many states are becoming concerned that children in foster care are being overmedicated with drugs for the treatment of mental health problems, including depression, anxiety, behavioral disorders, and attention deficit disorder. In 2004, two states passed legislation on the administration of psychotropic medications to children in foster care.

- California established time frames for judicial approval of requests to administer psychotropic medications.
- Connecticut required the child welfare agency to develop guidelines for the use of such drugs and to maintain a database on such use.

## Public Access to Proceedings

Consistent with the legislative trend toward opening the proceedings of courts to the public, and thereby holding child welfare agencies more accountable, three states enacted provisions regarding open courts.

- Hawaii provided that hearings in child protective proceedings may be opened to the public if a judge determines that doing so would be in the child's best interest.
- Missouri required that all juvenile court dependency proceedings and certain termination of parental rights proceedings, with exceptions, are to be open to the public.
- Utah moved up to July 1, 2004, the date on which child abuse or neglect proceedings are to be open to any person. Prior law provided that proceedings would be open statewide commencing on July 1, 2005.

## Reporting of Child Maltreatment

All states have laws that require the reporting of suspected child maltreatment. In 2004, two states amended their reporting laws.

- Missouri prohibited mandatory reporters from making anonymous reports and required the use of structured decisionmaking protocols for classifying reports made to the child abuse hotline.
- Wisconsin required members of the clergy to report suspicions of threatened or actual abuse and created a right to sue for damages caused by sexual exploitation by a member of the clergy.

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# APPENDIX. CITATIONS AND SUMMARIES OF STATE CHILD WELFARE LEGISLATION, 2004

## Adoption

### *2004 Conn. Acts, SB 298, Act 04-53*

Allows families who adopt children from foster care to purchase group health insurance through a state plan.

### *2004 Fla. Laws, SB 2046, Chap. 389*

Authorizes the court to waive the consent of the Department of Children and Families to an adoption of a child from foster care if the court determines that the consent is being unreasonably withheld and the petitioner has filed a favorable preliminary home study with the court.

### *2004 Mo. Laws, HB 1453*

Missouri amended its statute that provides a tax credit of up to \$10,000 for nonrecurring expenses associated with adoption of a special needs child. The cap on the cumulative amount of tax credits available during any fiscal year was raised from \$2 million to \$4 million. In the first 90 days of the fiscal year, half the cap is allocated to in-state adoptions and half the cap is allocated to out-of-state adoptions. If less than \$2 million in out-of-state credits have been claimed during the first 90 days, the remaining amount can be used for in-state adoptions. The legislature directed the state director of revenue to establish a procedure to equally apportion the cumulative amount of the tax credit among all claimants in a fiscal year.

### *2004 R.I. Pub. Laws, SJR 3195*

Creates a special legislative commission to study the benefits and support system for adoptions in the state.

### *2004 S.C. Acts, SB 390, Act 183*

Allows the state Children's Trust Fund to award grants to state and private programs that promote the adoption of special needs children who are in the state's custody.

## Agency Response to Reports of Maltreatment

### *2004 Colo. Sess. Laws, SB 117, Chap. 140*

Prohibits removal of a newborn child from the custody of his or her parents by a law enforcement officer without a court order that contains findings that an emergency exists and the newborn is seriously endangered. Specifies exceptions to the requirement for a court order. Requires a law enforcement officer who removes a newborn child to provide certain oral and written notices to the parents.

**2004 Colo. Sess. Laws, HB 1370, Chap. 180**

Authorizes county child welfare agencies, under specified conditions, to enter into a safety plan agreement with a person believed to be responsible for the abuse or neglect of a child and to defer the filing of a confirmed report of child abuse or neglect. Prohibits the county child welfare agency from filing a confirmed report if the person completes the safety plan agreement, and requires the filing of a confirmed report if the person does not complete the agreement.

**2004 Ind. Acts, HB 1194, PL 70**

Provides that investigations that uncover significant indications that a child may be at risk for abuse or neglect or evidence that abuse or neglect previously occurred, and which cannot be classified as substantiated or unsubstantiated, may be classified as “indicated.”

**Child Fatalities and Near Fatalities****2004 Del. Laws, SB 279, Chap. 376**

Requires the Child Death Review Commission to perform expedited reviews of all children who nearly die from abuse and/or neglect. The purpose is to provide meaningful, prompt, systemwide recommendations to prevent future deaths; to improve services to children, and to ensure compliance with federal requirements that the state is effectively discharging its child protection responsibilities.

**2004 Ind. Acts, HB 1194, PL 70**

Establishes a statewide child fatality review committee to review a child’s death that is sudden, unexpected or unexplained if the county where the child died does not have a local child fatality review team or if the local team requests a review by the statewide committee. Specifies the committee’s purposes, membership, duties and confidentiality requirements. Requires the Division of Family and Children to develop a data collection form to facilitate the review of child deaths by the statewide committee.

Provides for the public disclosure of records regarding a child’s death that is determined to be a result of abuse, abandonment or neglect. Provides that such records are to be redacted (prepared for publication) by the court to exclude identifying information and information that is not relevant to the facts and circumstances leading to the death of the child. Makes it a misdemeanor to falsify child abuse or neglect records or to obstruct a child abuse investigation, including an investigation conducted by a local child fatality review team or the state child fatality review committee.

**2004 Iowa Acts, HF 2328, Chap. 1153; 2004 Iowa Acts, HF 2390, Chap. 1116**

Revises the conditions and procedures for release of specified information regarding a child fatality or near fatality, pursuant to the Child Abuse Prevention and Treatment Act. Requires disclosure of information related to a fatality requested by certain legislative leaders in a confidential meeting. Authorizes a meeting participant to make general public statements concerning the state’s handling of a case of child abuse that has resulted in a fatality or near fatality. Specifies the information that can be released to the public.

**2004 Kan. Sess. Laws, SB 67, Chap. 144**

Requires that reports or records of child abuse or neglect that results in a child fatality or near fatality become public record and subject to disclosure. Defines near fatality.

Specifies that the secretary of the Department of Social and Rehabilitation Services has seven days from the receipt of a request to open the records to notify any affected individual that an open records request has been made. Allows the

secretary or any affected individual to file a motion requesting the court to prevent disclosure of such record or report, or any select portion thereof. Allows the secretary to release the reports or records if the affected individual or the secretary does not file such motion within seven days of notification.

Requires the court to consider the effect such disclosure might have on an ongoing criminal investigation; a pending prosecution; or the privacy of the child, if living; or the child's siblings, parents or guardians. Requires the court to make written findings on the record justifying the closing of the records.

***2004 Ky. Acts, HB 671, Chap. 169***

Requires the Cabinet for Families and Children to conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. Specifies the required contents of reports of such internal reviews.

***2004 Mo. Laws, HB 1453***

Requires that employees and private contractors of the Children's Division who are involved with child protective services (CPS) and who knowingly violate a policy, rule or state law related to the child abuse activities of the division be dismissed if the violation results in serious physical injury or death. Specifies that, if an employee is responsible for caseload assignments in excess of those required to attain accreditation and such employee's violation results in serious injury or death, the employee's good-faith efforts to follow policies shall be a mitigating factor in determining whether the employee is dismissed.

***2004 Tenn. Pub. Acts, HJR 792***

Requests the state Commission on Children and Youth and the Department of Health to conduct a statewide statistical study on violent deaths of children from infancy through age 18.

***2004 Wash. Laws, HB 2984, Chap. 36***

Requires the department to conduct a child fatality review in the event of an unexpected death of a minor who is in the care of or receiving services from the state's Department of Social and Health Services. Requires a report to the Legislature.

## **Child Welfare Workforce**

***2004 Alaska Sess. Laws, HB 375, Chap. 158***

Appropriates funds for 26 new positions in the areas of child protective investigations, quality assurance and independent living.

***2004 Md. Laws, SB 125, Chap. 429***

Provides that a portion of the general fund appropriation for child welfare services shall revert to the general fund if the Department of Human Resources does not have specified numbers of filled caseworker and supervisor positions on specified dates to meet Child Welfare League of America caseload standards.

***2004 Miss. Laws, HB 816, Chap. 489***

Requires the Office of Family and Children's Services to devise formal standards for child protection specialists who are not licensed social workers and specifies the minimum educational qualifications for the position. Requires that the person complete four weeks of intensive training and receive a passing score on a certification test for child protection specialists.

Prohibits child protection specialists from conducting forensic interviews of children until after receiving additional specialized training. Requires that the work of the child protection specialist must be overseen by a licensed social worker.

Requires the department to employ and use licensed social workers to provide services. Allows the employment of child protection specialists to provide those services only in counties in which there are not a sufficient number of licensed social workers to adequately provide services.

***2004 N.C. Sess. Laws, HB 1414, PL 124***

Appropriates \$4 million in state funds and \$1 million in Temporary Assistance for Needy Families (TANF) funds for 89 new county child welfare staff. Requires the Division of Social Services to distribute such funding based on a formula that will address the needs of counties that have high caseloads.

***2004 Neb. Laws, LB 1089***

Appropriates \$5.1 million in state funds and \$1.02 million in federal funds to implement the recommendations of a Children's Task Force, including the creation of 120 new positions.

***2004 W.Va. Acts, SB 133, Chap. 13***

Appropriates \$2.9 million for 219 new child welfare staff, including caseworkers, case aides and staff dedicated to technical assistance, training and regional planning.

## **Children's Advocacy Centers**

***2004 Fla. Laws, SB 606, Chap. 302***

Creates the Child Advocacy Trust Fund within the Department of Children and Families, consisting of funds collected in the form of additional court costs in cases of certain crimes against children. Specifies that funds shall be appropriated to the department and disbursed to the Florida Network of Children's Advocacy Centers Inc., for the purpose of funding children's advocacy centers. Requires that the network retain 10 percent of all revenues collected and use those funds to match local contributions in counties that are establishing children's advocacy centers.

***2004 Kan. Sess. Laws, HB 2568, Chap. 142***

Imposes a fee of \$100 on defendants convicted of certain crimes against minors, to be deposited into a newly created Children's Advocacy Center Fund. Specifies that the fund is to be used for the operating expenses of eligible children's advocacy centers.

***2004 Kan. Sess. Laws, HB 2569, Chap. 137***

Prescribes standards for children's advocacy centers. Requires a child advocacy center to

- Be a private, nonprofit agency or a governmental entity;
- Maintain a neutral, child-focused facility for forensic interviews;
- Have a minimum designated staff, approved and supervised by a local board or governmental entity;
- Have a multidisciplinary case review team;

- Provide tracking of child abuse cases handled by the center;
- Provide medical examinations or mental health therapy, or both, on site or through referrals to an offsite facility;
- Have a written protocol covering interagency participation in cases;
- Ensure that employees and volunteers are trained and screened as required by law; and
- Provide training for staff in forensic interviewing techniques.

***2004 S.C. Acts, SB 500, Act 177***

Specifies that children's advocacy centers must coordinate a multi-agency response to child maltreatment and assist in the investigation and assessment of child abuse. Requires the centers to provide the following:

- A neutral, child-friendly facility for forensic interviews;
- The coordination of services for children reported to have been abused;
- Services including, but not limited to, forensic interviews, forensic medical examinations, and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred; and
- Therapeutic counseling services, support services for the child and non-offending family members, court advocacy, and consultation and training for professionals who work in the area of child abuse and neglect, to reduce the negative effects on the child and break the cycle of abuse.

Requires the centers to develop memoranda of agreement with other governmental agencies responsible for investigating child maltreatment and to maintain membership in and operate within the standards of the National Children's Alliance. Requires written procedures for standards of care. Specifies record release provisions.

Requires the South Carolina Network of Children's Advocacy Centers and the South Carolina chapter of the National Children's Alliance to coordinate and facilitate the exchange of information among statewide centers and provide technical assistance to communities in the establishment, growth and certification of local centers.

## **Children's Exposure to Illegal Drugs**

***2004 Ga. Laws, SB 467, Act 439***

Provides that any person who intentionally causes or permits a child to be present where any person is manufacturing methamphetamine, or who possesses a chemical substance with the intent to manufacture methamphetamine, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two nor more than 15 years.

***2004 Hawaii Sess. Laws, SB 2165, Act 210***

Requires the Department of Human Services to implement a program to bring the state into conformance with the federal Child Abuse Prevention and Treatment Act. Mandates the referral of drug-affected newborns to CPS and establishment of triage procedures for the appropriate referral of a child who is not at risk of imminent harm to a community organization or voluntary preventive service.

**2004 Iowa Acts, HF 2150, Chap. 1151**

Establishes a new child endangerment criminal offense for permitting the presence of a child at a location where amphetamine or methamphetamine is manufactured or possessed with intent to manufacture, but where there is no serious injury to the child.

**2004 La. Acts, HB 33, Act 143**

Includes within the crime of cruelty to juveniles the intentional or criminally negligent exposure of a child to a clandestine laboratory operation in a situation where it is foreseeable that the child may be physically harmed.

**2004 S.D. Sess. Laws, SB 66, Chap. 181**

Provides that the term “abused or neglected child” shall include a child whose parent, guardian or custodian knowingly exposes the child to an environment in which methamphetamine is being manufactured.

**2004 Va. Acts, HB 1041, Chap. 753**

Includes within the definition of “abused or neglected child” a child who is with his or her parent or other person responsible for his or her care during the manufacture or unlawful sale of a schedule I or II controlled substance.

**2004 Wyo. Sess. Laws, HB 166, Chap. 72**

Makes it a crime for any person to knowingly and willfully cause or permit a child to ingest methamphetamine, remain in a dwelling or vehicle where the person knows methamphetamine is being manufactured or sold, or enter and remain in a dwelling or vehicle that the person knows is being used to manufacture or store methamphetamine.

**Comprehensive System Reform****2004 Conn. Acts, HB 5692, Act 04-216**

Increases the fiscal year 2004–2005 budget of the Department of Children and Families to meet the requirements of the *Juan F.* consent decree exit plan. Included in the increased funding were \$8.66 million to make permanent 145 social worker, supervisor and case aide positions; \$950,000 for flexible emergency services; \$10.3 million for enhanced support for families of children returning home from residential treatment, including development of family support teams, treatment foster care, group homes and wrap-around services; \$2.12 million for an expansion of the supportive housing program; and approximately \$23 million in deficiency appropriations (supplemental appropriations to compensate for funds spent in excess of the FY 2003–2004 budget). Reduces funding for residential treatment services, intensive family preservation services and community-based prevention programs by approximately \$4.5 million.

**2004 N.J. Laws, A 2985, Chap. 130**

Makes statutory changes required under a comprehensive child welfare reform plan. Restructures child protection services within the Department of Human Services (DHS) by creating an Office of Children’s Services (OCS) to oversee the Division of Youth and Family Services (DYFS). Provides that the OCS also will oversee two newly created divisions, the Division of Child Behavioral Health Services and the Division of Prevention and Community Partnerships.

Specifies the services that each will provide. Transfers the following responsibilities from the DYFS to the DHS to allow the DYFS to focus on protection of children from intrafamilial abuse and neglect: criminal history background checks for resource family parents, child care center employees and family day care providers; resource family home and child care center licensure; family day care provider registration; and the investigation of institutional child abuse and neglect.



Establishes the New Jersey Child Welfare Training Academy. Requires the training program to provide pre-service and in-service training for public child welfare employees and resource families. Requires the provision of training opportunities for community-based agencies and other child welfare stakeholders. Specifies that the academy must administer, coordinate and evaluate all training activities; partner with social work and other professionals; develop training curricula and resources; and create mechanisms to identify training needs.

Requires specialized training for resource families. Defines resource family parents to mean those with whom a child in the department's custody is placed for temporary or long-term care. Defines resource family homes to mean a private residence, other than a children's group home or shelter home, in which a resource family provides shelter to children.

Provides for the gradual elimination of long-term foster care with custody as a permanency option for children by repealing the Long-Term Foster Care with Custody Act and eliminating long-term foster care as a permanency option, effective September 1, 2005.

Requires the DYFS to maintain a centralized emergency telephone hotline for receipt of child abuse or neglect calls.

Renames the central registry operated by the DYFS as the child abuse registry and designates it as the repository for all information regarding child abuse or neglect.

Expands the list of people to whom the DHS is allowed to release child abuse report records to include members of a family team or another case planning group formed by the DYFS.

#### ***2004 N.J. Laws, S 2005, Chap. 71***

Appropriates an \$125 million increase in state funding of child welfare and matches that funding with \$60 million in federal funds to implement the state's child welfare reform plan.

### **Custody Relinquishment for Mental Health Services**

#### ***2004 Mo. Laws, HB 1453***

Authorizes voluntary placement agreements for children in need of mental health services, under which the parent or legal guardian of the child retains legal custody. Authorizes the Department of Social Services to allow the Department of Mental Health to administer the placement and care of such children, pursuant to an interagency agreement.

#### ***2004 Va. Acts, Special Session I, HB 5001, Chap. 4, Item 299***

Requires the State Executive Council for Comprehensive Services Act to investigate the reasons that lead to parents relinquishing custody of their children solely to obtain necessary mental health services. Requires the council to recommend policy options for abolishing this practice.

### **Education of Children in the Child Welfare System**

#### ***2004 Cal. Stats., AB 1858, Chap. 914***

Increases state and local accountability for meeting the educational needs of children with exceptional needs who are placed in nonpublic schools including children in foster care. Increases state and local monitoring of nonpublic schools, and requires that foster children placed in nonpublic schools be included in the state's testing system to monitor their educational outcomes.

Imposes requirements on placing agencies and nonpublic schools regarding monitoring of foster children's progress on individualized education plans. Prohibits licensed children's institutions and residential care facilities from requiring, as a condition of admission, that a child be identified as an individual with exceptional needs.

***2004 Fla. Laws, HB 723, Chap. 356***

Requires interagency agreements between the Department of Children and Families and the Department of Education, as well as district school boards, related to the education of children found dependent or in shelter care. Requires that the interagency agreements address the issues of disruptions in a child's education, identification of necessary services, information sharing, educational needs of children with disabilities, and training.

Adds the department and community-based care lead providers to the list of organizations to which students' educational records may be released, consistent with federal law.

***2004 Mo. Laws, HB 1453***

Requires automatic transfer of school records whenever a child must change schools as a result of being taken into custody. Requires that a child be permitted to attend the same school he or she was attending at the time of being taken into custody, upon request by the foster family, the guardian ad litem or the volunteer advocate, whenever possible. Requires the Children's Division, in consultation with the Department of Elementary and Secondary Education, to establish procedures for implementing this provision.

## **Expediting Permanency**

***2004 Conn. Acts, HB 5597, Act 04-128***

Shortens from 30 days to 20 days the period within which a court must hold a hearing on a termination of a parental rights petition when a parent has consented to the termination. Shortens from 90 days to 20 days the time limit for appealing probate court orders granting the termination of parental rights.

***2004 Ga. Laws, HB 1322, Act 489***

Shortens the time frames for judicial review of efforts made to ensure that a child will be adopted after a termination of parental rights.

***2004 Mo. Laws, HB 1453***

Requires the state Supreme Court to promulgate rules to require a mandatory court hearing within three business days of a child being taken into custody. Requires a court to hold an adjudication hearing within 60 days and a disposition hearing within 90 days of a child being taken into custody and to hold review hearings every 90 to 120 days during the first year that a child is in custody. Requires review hearings to be held at least every six months thereafter. Requires the state Supreme Court to promulgate rules regarding the effect of untimely hearings.

Prohibits a court from granting a continuance in a dependency proceeding absent compelling extenuating circumstances and written findings detailing the reasons for granting the continuance.

***2004 Okla. Sess. Laws, SB 1340, Chap. 452***

Shortens permanency hearing time frames from 12 months to 6 months. Reduces from 12 months to 6 months the required period of court supervision prior to dismissal of a case of a child who has been returned to a person named in a

petition. Allows the court to increase or decrease such supervision according to the best interests of the child. Requires review hearings to be held concurrently with permanency hearings.

## Family Involvement in Case Planning

### *2004 Mo. Laws, HB 1453*

Defines “family support team meetings” and requires that notice and opportunity to attend be given to the parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, the volunteer advocate and any designee of the parent who has written authorization. Specifies confidentiality requirements with respect to such meetings. Requires that a form be signed at the conclusion of any team meeting held in relation to a child removed from home, setting forth the core commitments by the relevant parties. Requires that a family support team meeting be held within 24 hours following a protective custody hearing and that additional meetings be held prior to taking any action with respect to the child’s placement.

### *2004 Wash. Laws, HB 3085, Chap. 182*

Requires the department to implement “family decision meetings,” which are family-focused interventions, facilitated by dedicated professional staff, that are designed to build and strengthen the natural care-giving system for the child. These interventions include family group conferences, family mediation, family support meetings and other professionally recognized interventions. They include extended family and rely upon the family to make shared decisions in establishing a plan that provides for the safety and permanency needs of the child. States the intent of the legislature to improve outcomes for children by encouraging and supporting meaningful family involvement in decision making related to planning for children involved in the child welfare system, in those instances where family is available and family involvement is in the best interest of the child.

### *2004 Wash. Laws, SB 6642, Chap. 147*

Requires that shelter care orders include the requirement for a case conference, unless the parent is not present at the shelter care hearing or does not agree to the case conference. Specifies who shall be included in case conferences, including the parent and the parent’s counsel. Provides that the purpose of a case conference is to develop a written service agreement.

### *2004 Wash. Laws, HB 2459, Chap. 276*

Appropriates \$1.7 million in state funds and \$531,000 in federal funds to fund case conferences, family team meetings and user interface improvements in the state child welfare agency’s information system.

## Financing

### *2004 Cal. Stats., AB 2496, Chap. 168*

Establishes a Child Welfare Program Improvement Fund, consisting of grants, gifts and bequests donated to the state by private sources. Specifies the purposes of the fund, which include supporting the state’s ability to achieve improved outcomes for children and families consistent with the terms of the state’s Program Improvement Plan for the Child Welfare Services Program.

***2004 Cal. Stats., SB 1612, Chap. 845***

Requires the state child welfare agency to amend its foster care state plan to authorize counties that elect to subsidize child care for foster parents to use federal matching funds under Title IV-E for that purpose. Restores language vetoed in the 2004–2005 Budget Act, enabling counties to access child welfare services augmentation funding for additional caseworkers based on caseload and unit costs, without requiring a county match. Restores \$17.1 million in state funding for county child welfare services vetoed in the 2004–2005 Budget Act.

***2004 Colo. Sess. Laws, HB 1414, Chap. 266***

Provides that federal funds that the state received under title IV-E in excess of the amount necessary to fully fund 1) title IV-eligible program, training and administrative costs and 2) the costs of the administrative review unit, formerly known as the foster care review program, shall be credited to an Excess Federal Title IV-E Reimbursements Cash Fund. Makes the money in the fund subject to annual appropriation by the General Assembly to the Department of Human Services to help defray counties' cost of performing administrative functions related to obtaining federal Title IV-E reimbursement. Provides that the General Assembly may, in addition, appropriate money from the fund to the department for allocation to the counties for the provision of assistance, child care, social services and child welfare services. Requires that such spending by counties qualifies as maintenance of effort (MOE) under the TANF program.

***2004 Hawaii Sess. Laws, HB 1860, Act 228***

Creates an income tax return checkoff to allow \$5 of a taxpayer's refund to be paid into the Hawaii children's trust fund, the domestic violence prevention special fund, and the spouse and child abuse special accounts.

***2004 Mo. Laws, HB 1453***

Requires the Department of Social Services to seek federal waivers and submit amendments to state plans to enhance federal reimbursement under Title IV-E and Title XIX of the Social Security Act and to qualify the state to receive any federal block grant funds that are or will be related to foster care or adoption assistance.

***2004 Utah Laws, HB 120, Chap. 100***

Requires the Division of Child and Family Services to make substantial efforts to obtain funding through federal waivers, federal grants and private donations for expansion and improvement of in-home services to families to prevent the removal of children.

**Foster Care*****2004 Ala. Acts, SB 228, Act 257***

Establishes the foster parents' bill of rights, which includes the rights of foster parents to the following:

- A written explanation of their role,
- Information about children in their care,
- Training and support,
- A written explanation of the child's placement plan,
- Fair and equitable board payments,

- Information about scheduled meetings and appointments for the foster child,
- A volunteer advocate to be present at all meetings with the department, and
- Notice of and the opportunity to be heard at all court hearings for their foster children.

Foster parents also have the right to refuse or accept placement within their home and the right to communicate with the child's birth parents and with all professionals who are working with the child.

***2004 Cal. Stats., SB 1178, Chap. 841***

Requires county child welfare agencies, to the greatest extent possible, to identify and use whole family foster placements for dependent minor parents and their children and to provide access to existing services for which such minor parents may be eligible.

Encourages county child welfare agencies to collect information to develop a more cost-effective infant supplemental rate structure that more adequately reimburses caregivers for the cost of infant care and teen parent monitoring.

***2004 Colo. Sess. Laws, HB 1271, Chap. 177***

Creates the "Dedicated Family Homes Pilot Program," through which children who have significant barriers to achieving permanency are ensured access to a placement setting in which they have established a bond with a parental figure. The program also will ensure that the setting is available to the child until the child attains age 18, subject to available appropriations.

Requires the Department of Human Services to license dedicated family homes and to designate no more than 10 county departments of social services and child placement agencies to recruit, train, monitor and investigate house parents to operate dedicated family homes. Provides that the state may use private gifts, grants and donations to reserve beds for specific children identified by the state. Clarifies that county departments and child placement agencies participate in the pilot program on a voluntary basis only.

Allows the department to allocate private funds for specified house parent inducements, including assistance with mortgage payments, insurance premiums, compensation for lost wages incurred by house parents who choose to maintain the dedicated family home, and assistance with training or education. Allows the department to seek the acquisition or construction of property, facilities or structures to be operated as dedicated family homes.

Prohibits a house parent from operating a dedicated family home if the house parent has been convicted of certain offenses.

Requires a report on the effectiveness of dedicated family homes to the legislature on December 31, 2007.

***2004 Conn. Acts, SB 300, Act 04-88***

Creates a new category of foster parents, "special study foster parents," who are eligible to receive a child age 14 or older under the same conditions applicable to placement with unlicensed relatives. Limits such placements to 90 days.

***2004 Conn. Acts, HB 5689, Act 04-258, Sec. 19***

Requires the Department of Children and Families to ensure that a caseworker visits each child in an out-of-state residential facility every two months.

**2004 Fla. Laws, SB 2046, Chap. 389**

Prohibits the Department of Children and Families from removing a foster child who has resided for at least six months with foster parents who are licensed or court-ordered custodians, when either the foster parent or custodian has applied for adoption and the application has been denied, unless ordered to do so by the court. Specifies exceptions, which include the failure to challenge the denial of adoption within 30 days.

**2004 Ga. Laws, HB 1580, Act 459**

Enacts the “Foster Parents Bill of Rights,” which include, but are not limited to, the rights to the following:

- Fair and unbiased treatment,
- Standardized training,
- Timely financial reimbursement, and
- Information concerning the child.

Foster parents also have the right to do the following:

- Refuse placement or request a child’s removal without fear of reprisal,
- Participate in case and visitation planning,
- Provide input regarding services for the child, and
- Be considered as a preferential placement if the child re-enters foster care or becomes available for adoption.

Provides that a foster parent may file a grievance in response to any violation of the bill of rights and that such grievance shall be the foster parent’s exclusive remedy. Requires the Division of Family and Children Services and the Office of the Child Advocate, along with an advisory committee, to establish a grievance procedure.

**2004 Md. Laws, SB 711, Chap. 304**

Requires local departments of social services, in determining a permanency plan for a child, to give priority to placing the child in the local jurisdiction where the child’s parent or guardian resides. Allows the local department to place the child in another jurisdiction, 1) based on compelling reasons that the first priority placement is not in the child’s best interest and 2) after considering the availability of resources needed to provide necessary services to the child, the accessibility to family treatment, and the effect on the local school system.

**2004 Mich. Pub. Acts, HB 5183, Act 18**

Requires the Family Independence Agency to use input from local foster care focus groups when developing and reviewing the foster care state plan under Title IV-E of the Social Security Act. Specifies that foster care focus groups shall be composed of youth in foster care or independent living programs, youth previously in foster care, foster parents or relatives caring for youth in foster care, and adults previously in foster care or independent living programs. Encourages the establishment of foster care focus groups in certain child-placing agencies and counties.

***2004 Wash. Laws, HB 2988, Chap. 181***

Sec. 1. Allows a foster parent to file a complaint with the Office of the Family and Children's Ombudsman if the parent believes that a department employee has retaliated or discriminated against the parent because the parent did any of the following:

- Filed a complaint with the ombudsman, the attorney general, law enforcement, or the department;
- Caused any dependency-related proceedings to be instituted;
- Testified in any dependency proceedings;
- Advocated for services on behalf of the foster child;
- Sought to adopt the child; or
- Consulted with anyone concerning foster parents' rights.

Requires the Family and Children's Ombudsman to include recommendations regarding complaints from foster parents in the ombudsman's annual report and to identify trends that may indicate a need to improve relations between the department and foster parents.

Sec. 2. Requires the department to develop procedures for responding to such recommendations.

***2004 Wash. Laws, SB 6643, Chap. 146***

Requires the department to develop consistent policies and protocols concerning visitation for dependent children that are based on current relevant research and that are to be implemented consistently throughout the state. Requires the department to consult with researchers in the field, community-based agencies, court-appointed special advocates, parent representatives and court representatives to develop the policies. The policies will include the structure and quality of visitations and training for caseworkers, visitation supervisors and foster parents. Requires a report.

## **Independent Living**

***Vol. 74 Del. Laws, SB 235, Chap. 323***

Authorizes the use of certain state scholarship funds as matching funds under the Chafee Educational and Training Voucher Program.

***2004 Fla. Laws, SB 512, Chap. 362***

Requires the state to take certain actions to ensure that youth in the custody of the Department of Children and Families are prepared to make the transition from custody to independent living. These include developing post-high school plans for children in the ninth grade and regular staffings (periodic interagency review of cases) for children ages 13 to 17, providing youth information about the Road-to-Independence scholarship program and public assistance, and conducting independent living assessments. Permits transitional support service funds to be used for disability and mental health services. Expands the life skills services that may be provided to include banking and budgeting, interviewing, and parenting.

Requires that a judicial review hearing be held within 90 days after a youth's 17<sup>th</sup> birthday and that certain information be provided to the court. Requires that, at each judicial hearing for children ages 13 to 17, courts consider and make a determination of the adequacy of the child's preparation for adulthood.

Authorizes certain changes to the Road-to-Independence scholarship program. Requires the waiver of tuition and fees at postsecondary educational institutions for youth who are eligible for but do not receive a Road-to-Independence scholarship because of the unavailability of funds.

***2004 Ky. Acts, HB 376, Chap. 147***

Authorizes certain state agencies, subject to sufficient funding, to develop and implement a homelessness prevention pilot project that offers voluntary institutional discharge planning to people who are exiting from state-operated or supervised institutions that provide mental health and foster care programs.

***2004 Minn. Laws, HF 2277, Chap. 288***

Secs. 30–31. Provides that youth who have current drug or alcohol problems, a recent history of violent behaviors, or a mental health disorder or issue that is not being resolved through counseling or treatment are not eligible to receive independent living services. Requires licensed providers of independent living services to make available the following services or adequate access to referrals for such services: counseling; educational, vocational or employment services; health care; transportation services; money management skills training; planning for ongoing housing; social and recreational skills training; and assistance establishing and maintaining connections with the child's family and community.

***2004 N.J. Laws, A 2985, Chap. 130***

Directs the Department of Human Services to provide services to individuals who are between 18 and 21 years of age and who meet the following conditions:

- The individual was receiving services from the Office of Children's Services (OCS) on or after the individual's 16<sup>th</sup> birthday;
- The individual has not requested that these services be terminated; and
- The OCS determines that a continuation of services is in the individual's best interest and would assist the individual in becoming an independent and productive adult.

***2004 N.Y. Laws, S 5078, Chap. 160***

Authorizes agencies approved by the Office of Children and Family Services to operate a supervised independent living program. Defines "supervised independent living program" as a type of agency boarding home that provides a transitional experience for older youth.

***2004 Vt. Acts, H 171, Act 72***

Directs the establishment of a trust fund to provide grants for students who do not have parental support and who are or who have been in the custody of the commissioner of social and rehabilitation services. Appropriates \$25,000 for deposit into the trust fund and expresses legislative intent to appropriate \$25,000 per year for each of the next four fiscal years.



**2004 Va. Acts, HB 1109, Chap. 196**

Authorizes local departments of social services to provide independent living services to people between the ages of 18 and 21 who are in the process of making the transition from foster care to self-sufficiency.

**Interagency Coordination and Reorganization****2004 Colo. Sess. Laws, HB 1451, Chap. 353**

Authorizes each county department of social services, local judicial district, health department, school district, community mental health center, and mental health assessment and service agency to enter into a memorandum of understanding (MOU) to promote a collaborative approach to interagency oversight and provision of services to children and families. Specifies minimum requirements for MOU, and requires certain reports.

Creates a performance-based collaborative management incentive cash fund; money from that fund is to be allocated to parties to an MOU who have agreed to performance-based collaborative management and who have met or exceeded performance measures specified by the state Department of Human Services or who have successfully implemented elements of collaborative management.

**2004 Conn. Acts, HB 5572, Act 04-238**

Establishes a child poverty council, consisting of legislative leaders, executive agency heads and other state officials, charged with developing a plan to reduce the number of children living in poverty in the state by 50 percent by July 1, 2014. Requires the plan to be submitted to the legislature by January 1, 2005.

**2004 Ill. Laws, SB 3208, PA 93-0867**

Renames the African-American Family Commission, created by Executive Order in 1994; the new name is the Illinois African-American Family Commission. The law also does the following:

- Expands the role of the commission to include establishing working relationships with the departments on Aging, Children and Family Services, Commerce and Economic Opportunity, Corrections, Human Services, Public Aid, Public Health, Transportation, and all other agencies that have an effect on African-American children and families. The purpose of establishing these relationships is to engage those agencies in the commission's efforts to preserve and strengthen African-American families.
- Requires the commission to monitor existing legislation and programs and assist state agencies in developing programs, services, public policy and research strategies to expand the social and economic well-being of African-American children and families.
- Requires the commission to facilitate the participation of African-Americans in developing, implementing and planning community-based services.
- Outlines commission membership and terms.
- Funds the commission through appropriations made to the previously mentioned state agencies.
- Requires an annual report to the governor and the General Assembly on progress toward the commission's goals and objectives.

**2004 La. Acts, SB 638, Act 78**

Permits dual reporting of child abuse to both the child welfare agency and law enforcement agencies. Requires local law enforcement agencies and local child protection units of the Department of Social Services to enter into written working agreements governing communication of such reports.

**2004 Me. Public Laws, LD 1913, Chap. 689**

Establishes the Department of Health and Human Services, which assumes the duties previously assigned to the Department of Human Services and Department of Behavioral and Developmental Services. The latter two departments also are incorporated into the Department of Health and Human Services. Specifies the services and programs, including child welfare services, that are to be delivered to children, families, and adults by the new department. Establishes a Health and Human Services Advisory Board.

**2004 R.I. Pub. Laws, S 2863, Chap. 415**

Authorizes and empowers the director of the Children, Youth and Families Department, in collaboration with other state and private agencies, to develop and maintain a comprehensive continuum of care for children who are in the care and custody of the department or who are at risk of being in state care. Requires that the continuum of care be family centered and include community-based prevention, family support and crisis intervention services, and a full array of foster care and residential services. Requires an annual report to the legislature.

**2004 Va. Acts, HB 420, Chap. 220**

Allows local departments of social services to develop multidisciplinary child protection teams, to include members of the medical, mental health, legal and law enforcement professions. Specifically included are the attorney for the Commonwealth or his or her designee, a local CPS representative, and the guardian ad litem or other court-appointed advocate for the child.

**2004 Wyo. Sess. Laws, HB 33, Chap. 28**

Requires the Department of Family Services to develop a comprehensive plan to improve the lives and futures of all children and families in the state and appropriates \$200,000 for that purpose. Identifies agencies, tribes and other groups with which the department must collaborate. Specifies required components of the plan, including the following:

- Promotion of efficient use of resources;
- Emphasis on early childhood interventions;
- Judicial reforms;
- Closer working relationships among schools, state agencies, courts, and community organizations;
- Examination of the roles of poverty, mental health needs, violence, lack of adequate health care, and substance use; and
- Determination of how funding and human resources could be employed in a more client-centered and efficient manner.

## Kinship Care

### ***2004 Hawaii Sess. Laws, SB 946, Act 99***

Allows a caregiver of a minor who lives with the minor but is not the minor's legal guardian to execute an affidavit of caregiver consent to enroll the minor in school and allow the minor to participate in curricular and co-curricular activities. Provides that a caregiver who makes a false statement in the affidavit of caregiver consent shall be subject to criminal penalties.

### ***2004 Idaho Sess. Laws, SB 1302, Chap. 145***

Defines "de facto custodian" as anyone who has been the primary caregiver and financial supporter of a child for a period of six months or more if the child is under age 3 and for a period of one year or more if the child is age 3 or older. Specifies that a de facto custodian may initiate proceedings for appointment of a guardian and is entitled to notice of any such proceeding. Requires the appointment of a guardian ad litem for a child in a guardianship proceeding.

### ***2004 Mo. Laws, HB 1453***

Requires placement with relatives whenever a child is placed in foster care and a court has determined that relative placement is not contrary to the welfare of the child.

### ***2003 N.Y. Laws, S 6818, Chap. 749***

Allows a parent to authorize an adult into whose care a minor has been entrusted to consent to health care treatment and health plan enrollment, school enrollment, absence from school, and participation in school programs and school-sponsored activities.

### ***2004 Va. Acts, SB 35, Chap. 814***

Requires the Department of Social Services to establish a subsidized custody program for children in foster care whose custody has been transferred to relative caregivers and for whom both reunification and adoption have been ruled out as placement options. Specifies that the program shall include the following:

- A one-time special-need payment for expenses resulting from assumption of a child's care;
- Services for the child, including short-term casework, information and referral, and crisis intervention; and
- A maintenance subsidy equal to the prevailing foster family rate.

Authorizes the department to establish an asset test for program eligibility. Requires the department to seek all necessary federal waivers to implement the program and provides that the program shall not become effective until federal funds are made available through a federal Title IV-E waiver and an appropriation of funds to implement the purposes of the act is enacted during the 2004 legislative session.

### ***2004 Va. Acts, SB 78, Chap. 70***

Requires local boards of social services to seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care.

## Legal Rights of Individuals

### ***2004 Cal. Stats., AB 2749, Chap. 292***

Revises state law to conform with federal law requiring that child welfare workers be trained in their duties to protect the legal rights of children and families. Requires that subjects of investigations be informed of the allegations against them.

### ***2004 Ind. Acts, HB 1194, PL 70***

Requires that CPS caseworkers be trained regarding their legal duties to protect the legal rights and safety of children and families, in conformance with the Child Abuse Prevention and Treatment Act.

### ***2004 Iowa Acts, HF 2327, Chap. 1152***

Requires that those alleged to have perpetrated child maltreatment be informed of the allegations against them. Requires that training of child protection workers include the duty to protect the legal rights of children and families, pursuant to the Child Abuse Prevention and Treatment Act.

### ***2004 La. Acts, SB 843, Act 729***

Requires that caseworkers and supervisors be trained regarding their legal duties to protect the legal rights of children and families. Requires caseworkers to advise individuals subject to child abuse investigations of the allegations made against them at the time of initial contact.

### ***2004 Mo. Laws, HB 1453***

Changes the standard for inclusion of a person on the child abuse and neglect central registry from “probable cause” to “preponderance of the evidence.”

Requires the court to grant one change-of-judge motion filed by a child age 17 or his or her parent.

### ***2004 Okla. Sess. Laws, HB 2718, Chap. 435***

Requires CPS workers to inform parents of the specific allegation made against them on initial contact pursuant to a CPS investigation.

### ***2004 Tenn. Pub. Acts, HB 2899, Chap. 740***

Requires that all CPS workers be trained in their legal duties to protect the constitutional and statutory rights of children and families from the initial time of contact. Requires that representatives of the CPS agency, at the initial time of contact, advise individuals of the allegations made against them.

### ***2004 Utah Laws, HB 268, Chap. 356***

Requires the Division of Child and Family Services to adopt rules to accommodate the moral and religious beliefs and culture of the children and families it serves.

Requires that treatment plans be designed to minimize disruptions to families’ normal activities. Requires that the time, place and amount of court-ordered services be designed to help families maintain or obtain employment.

Requires that interdisciplinary child protection teams include a representative of the child and a representative of a parent and family support group, unless the parent is alleged to be the perpetrator.

Creates, within the Department of Administrative Services, the Office of Child Welfare Parental Defense. Specifies duties, functions and responsibilities of the director. Specifies duties of contracted parental defense attorneys. Creates a Child Welfare Parental Defense Fund. Makes an appropriation.

***2004 Utah Laws, HB 197, Chap. 344***

Prohibits any agency from recommending or ruling on the custody, placement or other disposition alternative for a minor, or on termination of parental rights, based on the fact that the minor's parent or guardian legally possesses a firearm, espouses particular religious beliefs, or schools the minor outside the public education system.

***2004 Utah Laws, SB 104, Chap. 76***

In termination of parental rights cases involving the appointment of a mental health practitioner, requires the court to give strong consideration to the parent's or guardian's wishes regarding the selection of the mental health therapist.

***2004 Va. Acts, SB 584, Chap. 93; HB 1135, Chap. 233***

Requires training of CPS workers to include the legal duties of workers to protect the constitutional and statutory rights and safety of children and families from the time of initial contact. Requires local departments of social services to advise individuals of the allegations made against them.

## **Oversight, Studies and Evaluations**

***2004 Kan. Sess. Laws, SB 67, Chap. 114***

Provides that information from a record or report of a child in need of care that is available to certain legislative committees include information received by the Department of Social and Rehabilitative Services, a law enforcement agency, or any juvenile intake and assessment worker. Prohibits the secretary of social and rehabilitation services from including a summary in the written records of department actions regarding a child alleged to be a child in need of care.

***2004 La. Acts, HCR 281***

Requests the House and Senate committees on Health and Welfare to meet and function as a joint committee to study the current law and regulations governing children in foster care. Requires a report with findings and recommendations by December 31, 2005.

***2004 Md. Laws, HB 1146, Chap. 536***

Requires the Office for Children, Youth and Families to coordinate the planning and determine the cost of testing and implementing a system of outcomes evaluation with respect to programs serving children in out-of-home placement. Specifies the purposes of the system. Requires standardized measures to evaluate the child's safety, stability, family situation, educational and vocational development, job skills and employment readiness, cessation of drug and alcohol abuse, progress in controlling aggressive behavior, and delinquency status.

***2004 Mo. Laws, HB 1453***

Establishes an Office of Child Advocate for Children's Protection and Services.

Requires the Task Force on Children's Justice to conduct an independent review of the policies and procedures of state and local CPS agencies and reviews of specific cases, when appropriate, to determine how effectively agencies are discharging their responsibilities.

Expresses the intent of the legislature that the Department of Social Services attain accreditation by the Council on Accreditation for Children and Family Services within five years.

Requires the Department of Social Services to submit to the legislature a yearly statistical report regarding children and families in the child welfare system.

***2004 N.Y. Laws, S 5078, Chap. 160***

Requires each county to implement a child and family services plan by December 31, 2008, according to a schedule developed by the Office of Children and Family Services.

***2004 S.D. Sess. Laws, SB 211, Chap. 2***

Establishes the Governor's Commission on the Indian Child Welfare Act to study the requirements of the federal Indian Child Welfare Act, including compliance with the requirements for notice, placement, expert witness testimony, intervention, transfer of jurisdiction, and active efforts, and the means by which Indian tribes can assist in pursuing the policies of the act.

Requires the governor to appoint an independent reviewer to analyze compliance with the act by the Department of Social Services, the state attorneys, the Unified Judicial System, and private agencies involved in foster care and adoption. The independent reviewer also will analyze the means by which Indian tribes can assist the state and private agencies in achieving compliance.

Specifies commission membership and duties.

Requires the commission to review the efforts of the Department of Social Services to enter into agreements with Indian tribes regarding licensing of foster homes, access to federal funding, and contracting of child protection services.

Requires the commission to explore and evaluate options to address and resolve identified issues and barriers that prevent or hinder compliance and make recommendations to improve compliance with the federal Indian Child Welfare Act.

Opens records and transcripts to the commission pertaining to apparent, alleged or adjudicated abused or neglected children, with provisions for confidentiality.

***2004 W.Va. Acts, HB 4259, Act 126***

Requires the governor to appoint a Citizen's Advisory Council to assist the Governor's Cabinet on Children and Families. Specifies the council's purpose to include the following:

- Providing a forum for issues affecting children and families;
- Identifying best practices;
- Reviewing information and research to inform state policy;
- Making policy recommendations;
- Focusing on accountability and results;

- Engaging local communities; and
- Assisting the cabinet in developing a cross-agency, multi-year state plan to improve the well-being of children and families.

Sets membership and requires the governor to select three council members, to include one community representative, to serve on the cabinet.

## Prevention and Diversion

### *2003 Ark. Acts, Second Extraordinary Session, HB 1091, Act 68*

Gives the State Child Abuse and Neglect Prevention Board the duty of implementing the Family Resource Centers Act to remove nonacademic barriers to students' success and to meet the needs of children and their families through the establishment of a network of family resource centers across the state.

Allows the board to review grant applications and award grants to school districts for family resource centers and to formulate and assist with the implementation plan of establishing 10 family resource centers, subject to funding. Requires the board to monitor the centers; modify the implementation plan as necessary; promulgate rules; employ administrative or training staff; create local advisory groups; find alternative funding sources; and provide technical, organizational, program, professional and any other assistance necessary.

Specifies that the implementation plan for the centers shall include the following:

- Child development activities to strengthen the parent and child bond;
- Life skills education training;
- Family literacy programs;
- Informal networking and referrals to child care centers, health care providers, counseling services, legal aid, food banks, housing, and domestic violence shelters; and
- Parenting education services.

### *2004 Cal. Stats., SB 855, Chap. 664*

Includes crisis nurseries, which provide short-term respite care for families under stress, within provisions regulating community care facilities and establishes conditions and requirements for operation. Authorizes temporary placement in crisis nurseries of a limited number of children referred by county child welfare agencies.

### *2004 Ill. Laws, HB 4831, PA 93-0730*

Requires the Department of Human Services to establish a program to award grants to area projects to plan, establish, operate, coordinate and evaluate community services programs. These programs should be aimed at changing social, cultural and environmental conditions that prevent youth and families from maximizing their potential and that place youth in a condition that increases their tendency to become involved in the juvenile justice or child welfare systems. Requires the department to develop rules for area project eligibility criteria, application requirements, service components, and review and monitoring procedures.

**2004 Iowa Acts, HF 2462, Chap. 1130**

Requires the state Department of Human Services to initiate one or more child welfare diversion and mediation pilot projects during state fiscal year 2004–2005. Requires the department to also implement a child-in-need-of-assistance family case staffing pilot project. Under that project, the department is to conduct a full case staffing prior to filing a child-in-need-of-assistance petition. States that the purposes of the pilot projects are to divert selected child abuse and neglect cases that may otherwise result in a child-in-need-of-assistance adjudication, improve permanency for children, promote family unification, and reduce state expenditures associated with adjudication of child protection cases.

**2004 La. Acts, HB 1363, Act 555**

Repeals the parish youth services program. Creates children and youth planning boards in each judicial district to assist in assessing and coordinating all available services and programs that address the needs of children and youth at risk for educational failure, abuse, neglect, exposure to violence, juvenile or parental mental illness, juvenile or parental substance abuse, poverty, developmental disabilities and delinquency. Encourages a continuum of community-based services to divert children and youth from the criminal justice and foster care systems that is to include prevention, early intervention, diversion and alternatives to home displacement.

Requires the Children’s Cabinet to facilitate the creation of children and youth planning boards by offering guidance and technical assistance to local communities and governing authorities. These include, but are not limited to, resource identification, needs assessments, monitoring and performance evaluation, strategic planning, and other forms of assistance and support.

**2004 Mo. Laws, HB 1453**

Requires hospitals that provide obstetrical services to offer to show new mothers a video on shaken baby syndrome. Eliminates waiting periods for health coverage under the state Medicaid program if a child has special needs that, if not treated, would result in death or serious physical injury.

**2004 Va. Acts, SB 114, Chap. 245**

Allows a parent to safely deliver a newborn to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians within 14 days of the child’s birth. Provides that a parent who takes the foregoing actions shall have a defense against allegations of child abuse or neglect, but allows a court to find that such a child is a neglected child on the ground of abandonment for purposes of terminating parental rights.

**Privatization****2004 Fla. Laws, HB 723, Chap. 356**

Directs the Florida Coalition for Children, Inc., in consultation with the Department of Children and Families, to develop a plan for a statewide community-based care risk pool for the protection of eligible lead community-based care providers, their subcontractors, and other service providers against specified contingencies. Requires that federal child welfare funds reimbursed to the state that are in excess of the amount appropriated by the Legislature (and spent by the state or its contract providers for eligible expenses) be allocated to the risk pool. Directs the department, upon approval of the plan, to issue an interest-free loan to the risk pool equal to the amount appropriated by the Legislature for this purpose. Provides that subsequent funding of the risk pool shall be supported by premiums assessed to members of the pool and, if necessary, by transfers of funds by the state agency if the risk pool is declared to be insolvent.

Provides that a lead community-based care provider should directly provide no more than 35 percent of all child protective services provided. Specifies certain residency requirements for lead provider boards of directors.



***2004 Mo. Laws, HB 1453***

Requires the Children's Division, in consultation with the community and service providers, to contract with qualified children's services providers to offer a comprehensive system of service delivery for children and families. Specifies that the division shall be the sole provider of child abuse hotline services, initial child abuse and neglect investigations, and initial family assessments. Specifies required components of contracts. Requires yearly reports to the legislature.

**Psychotropic Medications*****2004 Cal. Stats., AB 2502, Chap. 329***

Establishes time frames for judicial officers to approve or deny a request for authorization to administer psychotropic medication to a child in foster care or to schedule a hearing on the matter.

***2004 Conn. Acts, HB 5572, Act 04-238***

Requires the Department of Children and Families to establish guidelines for the use of psychotropic drugs with children and youth in its care and to develop a database to track the use of such drugs.

**Public Access to Proceedings*****2004 Hawaii Sess. Laws, HB 1980, Act 211***

Provides that hearings in child protective proceedings may be opened to the public if a judge determines that doing so would be in the child's best interests. Allows parties involved in such proceedings to be accompanied by an adult advocate, unless the court finds that the presence of the advocate would not be in the best interests of the child.

***2004 Mo. Laws, HB 1453***

Requires that all juvenile court dependency proceedings and termination of parental rights proceedings initiated by a juvenile officer or the Children's Division shall be open to the public. Provides that the court may exclude certain people from the proceedings upon good cause shown and that any party, except the state, may petition to close the proceedings or any part thereof. Requires that the general public be excluded from any portion of the proceedings during the testimony of any child or victim. Provides that court orders and pleadings, other than confidential files, shall be available to the public.

***2004 Utah Laws, HB 90, Chap. 324***

Changes the date on which any person may be admitted to a child abuse or neglect hearing in juvenile court from July 1, 2005, to July 1, 2004.

**Reporting of Child Maltreatment*****2004 Mo. Laws, HB 1453***

Prohibits mandatory reporters of child abuse from making anonymous reports.

Requires the use of structured decision making protocols for classifying reports made to the child abuse and neglect hotline.

***2004 Wis. Laws, SB 207, Act 279***

Requires a member of the clergy to report if he or she has reasonable cause to suspect that a child seen in the course of his or her professional duties has been abused or has been threatened with abuse and that additional abuse is likely to occur. Creates a right to sue for damages for sexual exploitation by a member of the clergy.



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