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FOSTER CARE

State Efforts to Expedite Permanency Hearings and Placement Decisions

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Foster Care: State Efforts to Expedite Permanency Hearings and Placement Decisions

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss states' efforts to reduce the time children spend in foster care and, where appropriate, to facilitate adoption. The federal cost for foster care was almost $3.1 billion in fiscal year 1995 and is estimated to increase to almost $4.8 billion in 2001. Available data suggest that more than 40 percent of foster children stay in care for 2 years or more. In addition, almost 30 percent of children were placed in at least three different settings while in foster care. This situation is not in the best interest of children who, without benefit of permanent homes and stable caregivers, may be more likely to develop emotional, intellectual, or physical problems.

At your request, we are completing a report on progress states are making to expedite the permanent placement of children. My testimony today will discuss (1) state efforts to reduce the time frames within which hearings must be held to determine permanent placements for foster children, (2) state initiatives designed to expedite permanent placements for foster children and the effectiveness of these initiatives, and (3) key factors that facilitate changes in this part of the child welfare system. My comments are based on an analysis of statutory and policy changes in all states and the District of Columbia regarding the time frames for the first hearing at which a permanent placement for a foster child is to be determined and discussions or visits with child welfare officials in seven states about the programs they have implemented to address the length of time children spend in foster care.[1]

In summary, signaling the importance of permanent placement to the well-being of children, 26 states have established more stringent requirements on the timing of the first permanency hearing than has federal law, which requires a hearing within 18 months. In addition, the states we reviewed undertook operational and procedural initiatives to expedite the permanent placement process as well as make well-informed permanent placement decisions. Although most of these states did not systematically evaluate their initiatives, they reported that many of the initiatives have contributed to reducing the time spent in foster care or decreasing the total number of foster placements made for a child. State officials reported that the key factors in successfully implementing these initiatives were the long-term involvement of key officials, an extended commitment of resources, and the need for a change in perspective of

[1]These states are Arizona, Colorado, Georgia, Kansas, Kentucky, Ohio, and Tennessee.

caseworkers and judges in order to recognize that, in some cases, termination of parental rights is the best solution for the child's future.

Background

State child welfare systems consist of a complicated network of policies and programs designed to protect children. With growing caseloads over the past decade, the systems' ability to keep pace with the needs of troubled children and their families has been greatly taxed. From fiscal year 1984 through 1995, the foster care population grew from an estimated 276,000 children to 494,000.[2] In 1995, about 261,000 of these children were supported by federal funds through title IV-E of the Social Security Act.[3]

The federal government plays an important role in financing foster care and establishes minimum procedural requirements for the placement process. As required by the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), states must make reasonable efforts to prevent or eliminate the need for removing children from their homes. Once a child is removed from the home, the state must also provide services to the family and the child with the goal of reuniting them. If reunification is not possible, the state is to find permanent placement for the child outside the family home.

To guide the permanency planning process by which a state is to find permanent placements for foster children, the act also requires that the state develop a case plan for each child. Each case plan must be reviewed at least every 6 months and, within 18 months, a permanency hearing must be held to determine the future status of the child. If a final decision is not made at this hearing, federal law provides that additional hearings must be held at least every 12 months. Options for the child's future status can include, but are not limited to, reuniting the child with his or her family, placing the child for adoption, continuing temporary foster care, or continuing foster care permanently or long term because of the child's special needs or circumstances. Increasingly, children are being placed with their own relatives, who then may sometimes receive foster care subsidies.

[2]The American Public Welfare Association estimated these numbers on the basis of data voluntarily reported by the states; it designated the 1995 number as preliminary.

[3]Under title IV-E of the Social Security Act, federal funds are provided to states to cover a portion of the food, housing, and incidental expenses of children in foster care. To be eligible for federal support, children must be from families who met the 1995 eligibility criteria of the now terminated Aid to Families With Dependent Children program. The states incur all foster care costs for children not eligible for federal support.

Several State Statutory and Policy Changes Require Permanency Hearings Sooner

The prolonged stays of children in foster care have prompted 26 states to enact laws or policies to shorten to less than the federally allowed 18 months the time between entering foster care and the first permanency hearing. Twenty-three of these states have enacted such laws, while three others have done so by administrative policy. A majority of these states require the hearing within 12 months. In two states, the shorter time frame applies only to younger children. Colorado requires that the permanency hearing be held within 6 months for children under age 6, and Washington requires the hearing to be held within 12 months for children aged 10 or younger. The remaining 24 states and the District of Columbia have statutes consistent with the federal requirement of 18 months. (For a description of the 26 state statutes, policies, and time requirements, see app. I.)

The state laws, like federal law, do not require that a final decision be made at the first hearing. Ohio and Minnesota, however, do require that a permanency decision be determined after a limited extension period. Ohio, for example, requires a permanency hearing to be held within 12 months, with a maximum of two 6-month extensions. At the end of that time, a permanent placement decision must be made. According to officials in Ohio's Office of Child Care and Family Services, the requirement for earlier permanency hearings was made to expedite the permanent placement process and reduce the time children spend in foster care. State officials also believed, however, that this requirement may have unintentionally resulted in increasing the number of children placed in long-term foster care because other placement options could not be developed. State data, in part, confirmed this observation. While long-term foster care placements for children supported with state funds dropped from 1,301 in 1990 to 779 in 1995, long-term placements for children from low-income families who are supported in part with federal funds rose from 1,657 to 2,057 in the same period.

States Make Changes in Permanency Process With Some Promising Results for Foster Children

Although the states we reviewed did not systematically evaluate the impacts of their initiatives, they have implemented a variety of operational and procedural changes to expedite and improve the permanency process. The states reported that these actions have improved the lives of some children by (1) reuniting them with their families more quickly; (2) expediting the termination of parental rights when reunification is not feasible, making it possible for child welfare agencies to begin looking for an adoptive home sooner; or (3) reducing the number of different foster care placements in which children live.

New Service Strategies Help Reunification Process

Some states implemented low-cost, creative methods for financing and providing services that address specific barriers to reuniting families. Arizona's Housing Assistance Program focused on families in which the major barrier to reunification was inadequate housing for the family. According to reports and data from the Arizona Department of Economic Security, between 1991 and 1995, as the result of the program, 939 children were reunited with their families, representing almost 12 percent of the children reunified during this period. State officials estimated that this program saved the state over $1 million in foster care-related costs between 1991 and 1995.

States Streamline Termination Procedures

Arizona and Kentucky placed special emphasis on expediting the process by which parental rights could be terminated. Arizona's Severance Project focused on cases in which termination of parental rights was likely or reunification services were not warranted and for which a backlog of cases had developed. In April 1986, the state enacted a law providing funds for hiring severance specialists and legal staff to work on termination cases. The following year, in 1987, the state implemented the Arizona State Adoption Project, which focused on identifying additional adoptive homes, including recruiting adoptive parents for specific children and contracting for adoptive home recruitment services. State officials reported that the Adoption Project resulted in a 54-percent increase in the number of new homes added to the state registry in late 1987 and 1988. In addition, they noted that the Severance Project contributed to a more than 32-percent reduction in the average length of stay between entering care and the filing of the termination petition for fiscal years 1991 through 1995.

To reduce a backlog of pending cases, Kentucky's Termination of Parental Rights Project focused on reducing the time required to terminate parental rights once a decision has been made to do so. This effort included retraining caseworkers, lawyers, and judges on the consequences of long stays in foster care and streamlining and improving the steps caseworkers must follow when collecting and documenting the information required for termination procedures. A report on this effort indicated that between 1989 and 1991, the state decreased the average time to terminate parental rights by slightly more than 1 year. In addition, between 1988 and 1990, the average length of stay for children in foster care decreased from 2.8 years to 2.0 years and the average number of different foster care placements for each child decreased from four to three.[4] However, as the number of

[4]Report on Improving Practice: Termination of Parental Rights (Frankfort, Ky.: Kentucky Department for Social Services, Sept. 1991).

children available for adoption rose, the state was forced to focus its efforts on identifying potential adoptive homes and shifted its emphasis to strategies to better inform the public about the availability of adoptive children.

Concurrent Planning Can Lead to Greater Efficiency

Some states are experimenting with concurrent planning. Under this approach, child welfare officials work toward reuniting a family while developing an alternate plan for permanently removing the child if reunification efforts fail. By working on the two plans simultaneously, caseworkers reduce the time needed to prepare the paperwork for terminating parental rights if reunification efforts fail. Under a concurrent planning approach, caseworkers emphasize to the parents that if they do not adhere to the requirements set forth in their case plan, parental rights can be terminated. Some state officials attributed obtaining quicker permanent placements in part to parents making more concerted efforts to make the changes needed to have their children returned home.

Colorado began using concurrent planning formally in 1994 for children under age 6 in conjunction with the implementation of the law requiring that for children under age 6, the permanency hearing must be held within 6 months of the child's entering care. The program has been implemented in five counties. Preliminary data from an ongoing evaluation in Jefferson County shows that 65 out of 78 children, or 87 percent, achieved permanent placement within 1 year of initial placement as compared with 50 of 71 children, or 70 percent, in a control group. State Department of Human Services officials told us that concurrent planning was a key factor that contributed to the success of children's being placed more quickly in permanent homes.

Streamlined Procedures Improve Court Functioning

All decisions regarding both the temporary and final placement of foster children come through states' court systems. Therefore, Hamilton County, Ohio, juvenile court officials focused attention on the court's involvement in achieving permanency more quickly by developing new procedures to expedite case processing. To do so, in 1985, they revised court procedures by (1) designating lawyers specially trained in foster care issues as magistrates to hear cases; (2) assigning one magistrate to each case for the life of that case to achieve continuity; and (3) agreeing at the end of every hearing—with all participants present—to the date for the next hearing.

According to court officials, the county saved thousands of dollars because it could operate three magistrates' courtrooms for about the cost of one judge's courtroom. Also, a report on court activities indicated that because of these changes, between 1986 and 1990, the number of children (1) placed in four or more different foster care placements decreased by 11 percent and (2) the percentage of children leaving temporary and long-term foster care in 2 years or less increased from 37 to 75 percent.

States Have Not Assessed the Impact of Initiatives

Our efforts to assess the overall impact of these initiatives were hampered by the absence of evaluation data. We found that the states generally did not conduct systematic evaluations of their programs, and outcome information was often limited to state reports and the observations of state officials. Although many of these efforts reported improvements, for example, in speeding the termination of parental rights once this goal was established, the lack of comparison groups or quality data from the period before the initiative made it difficult to reach definitive conclusions about the initiatives' effectiveness.

Key Factors Essential for Meeting Goals of Initiatives

States increased their chances of successfully developing and implementing initiatives when certain key factors were a part of the process. When contemplating changes, state officials had to take into consideration the intricacies of the foster care process, the inherent difficulty that caseworkers and court officials face when deciding whether a child should be returned home, and the need, in some cases, for caseworkers and judges to recognize that termination of parental rights should be pursued.

When Kentucky officials, for example, initiated a project to shorten the process for terminating parental rights, they faced the challenge of changing the way caseworkers and members of the legal system had viewed termination of parental rights. Many caseworkers saw the termination of parental rights as a failure on their part because they were not able to reunify the family. As a result, they seldom pursued termination and instead kept the children in foster care. In addition, judges and lawyers were often not sufficiently informed of the negative effects on children who do not have permanent homes. Thus, as part of this project, newsletters and training were provided about the effects on children of delaying termination of parental rights.

Officials in the states we reviewed recognized that improving the permanency planning process requires concerted time and effort, coordination, and resources. These officials identified several critical, often interrelated factors required to meet these challenges. These included (1) long-term involvement of officials in leadership positions; (2) involvement of key stakeholders in developing consensus and obtaining buy-in about the problem and its solution; and (3) the availability of resources to plan, implement, and sustain the project.

Observations

With the expected rise in foster care caseloads through the start of the next century further straining state and federal child welfare budgets, increasing pressure will be placed on states to develop initiatives to move children into permanent homes more quickly. Many of these initiatives will need to address the difficult issues of deciding under what circumstances to pursue reunification and what time period is appropriate before seeking the termination of parental rights.

We found promising initiatives for changing parts of the permanency process so that children can be moved from foster care into permanent placements more quickly. Developing and successfully implementing these innovative approaches takes time and often challenges long-standing beliefs. To succeed, these initiatives must look to local leadership involvement, consensus building, and sustained resources.

As these initiatives become a part of the complex child welfare system, however, they can also create unintended consequences. Identifying appropriate cases for the expeditious termination of parental rights and processing them faster—thereby making more children available for possible adoption—can create difficulties if efforts to develop more adoptive homes have not received equal emphasis.

We also observed that a critical feature of these initiatives was often absent: Many of them lacked evaluations designed to assess the impact of the effort. The availability of evaluation information from these initiatives would not only point to the relative success or failure of an effort but also help identify unintended outcomes. The lack of program and evaluation data will continue to hinder the ability of program officials and policymakers to fully understand the overall impact of these initiatives.

Mr. Chairman, this concludes my formal remarks. I will be happy to answer any questions you or other members of the Subcommittee may have.

Contributors

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States That Require a Permanency Hearing Earlier Than the Federal Requirement of 18 Months (as of December 31, 1996)

State	Requirement for holding the permanency hearing[a]	Year law or policy was enacted	State law citation	State policy/ regulation citation
Arizona	12 months	1995	Ariz. Rev. Stat. Ann., Section 8-515.C.(West Supp. 1996)	
Colorado	6 and 18 months[b]	1994	Colo. Rev. Stat., Section 19-3-702(1)(Supp. 1996)	
Connecticut	12 months	1995	Conn. Gen. Stat. Ann., Section 46b-129(d),(e) (West 1995)	
Delaware	17 months	1987		Child Protective Service Directive Policy #3026
Georgia	12 months	1996	Ga. Code Ann., Section 15-11-419 (j),(k)(1996)	
Illinois	16 months	1993	705 Ill. Comp. Stat. Ann., 405/2-22(5)(West Supp. 1996)	
Indiana	12 months	1996	Ind. Code Ann., Section 31-6-4-19(c)(Michie Supp. 1996)	
Iowa	12 months	1987	Iowa Code Ann., Section 232.104 (West 1994)	
Kansas	12 months	1994	Kan. Stat. Ann., Section 38-1565(b),(c)(1995)	
Louisiana	12 months	1991	La. Ch. Code Ann., Arts. 702,710(West 1995)	
Michigan	15 1/2 months[c]	1988	Mich. Stat. Ann., Section 27.3178(598.19a) (Law Co-op Supp. 1996)	
Minnesota	12 months	1993	Minn. Stat. Ann., Section 260.191 Subd. 3b(West Supp. 1997)	
Mississippi	12 months	1985	Miss. Code Ann., Section 43-21-613 (3)(1993)	
New Hampshire	12 months	1987		New Hampshire Court Rules Annotated, Abuse and Neglect, Guideline 39 (Permanency Planning Review)[d]
New Mexico	6 months	1993		State official's statement[e]
New York	12 months	1989	N.Y. Jud. Law, Section 1055(b)(McKinney Supp. 1997)	
Ohio	12 months	1989	Ohio Rev. Code Ann., Sections 2151.353(F) 2151.415 9 (A) (Anderson 1994)	
Pennsylvania	6 months	1986	42 Pa. Cons. Stat. Ann., Section 6351(e-g)(West Supp. 1996)	

(continued)

State	Requirement for holding the permanency hearing[a]	Year law or policy was enacted	State law citation	State policy/ regulation citation
Rhode Island	12 months	1985	R.I. Gen. Laws, Section 40-11-12.1(1990)	
South Carolina	12 months	1983	S.C. Code Ann., Section 20-7-766(Law. Co-op. Supp. 1996)	
Utah	16 months	1995	Utah Code Ann., Section 78-3a-312, (1996)	
Virginia	12 months[f]	1994	Va. Code Ann., Section 16.1-282(Michie 1996)	
Washington	12 and 18 months[g]	1994	Wash. Rev. Code Ann., Section 13.34.145(3)(4) (West Supp. 1997)	
West Virginia	12 months	1984	W. Va. Code Sections 49-6-5, 49-6-8(1996)	
Wisconsin	12 months	1981	Wis. Stat. Ann., Sections 48.355(4); 48.38; 48.365(5)(West 1987)	
Wyoming	12 months	1995	Wyo. Stat. Ann., Section 14-6-229 (k)(Michie Supp. 1996)	

[a]Generally, a permanency hearing must be held within the indicated number of months after the child enters foster care.

[b]Colorado law requires that for children under age 6, the permanency hearing be held within 6 months from when the child enters care. The time frame to hold the permanency hearing was calculated by adding the days needed to conduct the adjudicatory, dispositional, and permanency planning hearings. This expedited procedures program will be implemented on a county-by-county basis and will be fully implemented in the state by June 30, 2004. For children aged 6 and older, the permanency hearing is held within 18 months of placement.

[c]Michigan's time frame to hold the permanency hearing was calculated by adding the days needed to conduct the preliminary hearing, trial, dispositional hearing, and the permanency hearing.

[d]New Hampshire law is unclear regarding the time frame to hold the permanency hearing; therefore, we relied on the "New Hampshire Court Rules Annotated—Statutory Requirements and Guidelines for Abuse and Neglect," Guideline 39, which requires that a permanency hearing be held within 1 year of the child's placement in foster care.

[e]New Mexico law does not refer to permanency hearings. It does require that a dispositional hearing be conducted every 6 months to review the permanency plan of the child. During this review, a permanency decision for the child can be made, but this is not required.

[f]Virginia's time frame to hold the permanency hearing was calculated by adding the number of months required to file the petition to hold the permanency hearing plus the number of days within which the court is required to schedule the hearing.

[g]Washington's law requires the permanency hearing to be held no later than 12 months after a child is placed in foster care for children 10 years old and under. For children over age 10, the permanency hearing must be held no later than 18 months after a child is placed in foster care.

Related GAO Products

Child Welfare: Complex Needs Strain Capacity to Provide Services (GAO/HEHS-95-208, Sept. 26, 1995).

Child Welfare: Opportunities to Further Enhance Family Preservation and Support (GAO/HEHS-95-112, June 15, 1995).

Foster Care: Health Needs of Many Young Children Unknown and Unmet (GAO/HEHS-95-114, May 26, 1995).

Foster Care: Parental Drug Abuse Has Alarming Impact on Young Children (GAO/HEHS-94-89, Apr. 4, 1994).

Residential Care: Some High-Risk Youth Benefit, But More Study Needed (GAO/HEHS-94-56, Jan. 28, 1994).

Foster Care: Services to Prevent Out-of-Home Placements Are Limited by Funding Barriers (GAO/HRD-93-76, June 29, 1993).

Foster Care: State Agencies Other Than Child Welfare Can Access Title IV-E Funds (GAO/HRD-93-6, Feb. 9, 1993).

Foster Care: Children's Experiences Linked to Various Factors; Better Data Need (GAO/HRD-91-64, Sept. 11, 1991).

Child Welfare: Monitoring Out-of-State Placements (GAO/HRD-91-107BR, Sept. 3, 1991).

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