



House of Representatives
COMMONWEALTH OF PENNSYLVANIA

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: Foster Care System

**West Whiteland Township Building – Exton, PA
September 9, 2019**

AGENDA

- 2:00 p.m. Welcome and Opening Remarks
- 2:10 p.m. Panel from UPenn's Field Center for Children's Policy, Practice & Research
- Debra Schilling Wolfe, Executive Director
 - Sarah Wasch, Program Manager of Foster Care to College Initiative
- 2:30 p.m. *Questions & Answers*
- 2:50 p.m. Panel Two:
- Frank Cervone, Executive Director, Support Center for Child Advocates
 - Maryann Piccioni, Former Foster Parent
- 3:10 p.m. *Questions & Answers*
- 3:30 p.m. Panel Three:
- Joseph Birli, President/CEO, Children's Home of York
 - Tammy Weimann, Associate Director of Permanency, Children's Home of York
 - Heather Bert, Executive Director, Bethany Christian Services of the Greater Delaware Valley
 - Kim Dent, Foster Care Program Manager, Bethany Christian Services of the Greater Delaware Valley
- 3:50 p.m. *Questions & Answers*
- 4:10 p.m. Closing Remarks

Pennsylvania House
House Democratic Policy Committee
September 9, 2019

The State of Foster Care

Testimony submitted by:

Debra Schilling Wolfe, MEd
Executive Director
The Field Center for Children's Policy, Practice & Research
University of Pennsylvania

Thank you for the opportunity to testify regarding the state of foster care. My name is Debra Schilling Wolfe. I am the Founding Executive Director of the Field Center for Children's Policy, Practice & Research at the University of Pennsylvania, a collaboration of the University of Pennsylvania's Schools of Social Policy & Practice, Law, Medicine, Nursing and the College of Arts & Sciences as well as the Children's Hospital of Philadelphia. I have spent the past four decades of my career in the child welfare field in a variety of settings across the country, and focus my work on improving policy and practice for the benefit of abused and neglected children and those involved in the foster care system.

I am here today to confirm that, indeed, the foster care system is in crisis and in need of reform. Foster care is designed to provide temporary care for children who cannot remain safely in their own homes, primarily due to child abuse or neglect. Children enter foster care after the local county children and youth agency determines that out-of-home placement is necessary and brings the case before the local dependency court. Placement can be with either kin or with a certified/licensed un-related caregiver. Effort is made to first place children with relatives before looking at other alternatives. While the majority of children are placed in traditional, non-relative foster homes, 30% of out-of-home placements nationally occur in kinship homes. The federal Adoption and Safe Families Act limits the amount of time that children should remain in foster care so that children do not languish in a temporary setting without a permanent plan for their future. Although this legislation has done much to limit the length of time in care, too many children's futures remain in limbo as a permanent connection to family is never realized.

Research tells us that, while children in traditional foster care are more likely than those placed with kin to achieve legal permanence and receive services and financial support, children in kinship care have more stable placements and fewer behavioral problems, mental health diagnoses, and lower rates of re-abuse while in care (Winokur, Holtan, & Batchelder, 2015). Models such as *Family Finding* have been utilized to identify alternative kinship resources for children and have contributed to an increase in relative placements.

According to the federal 2018 AFCARS report, as of September 30, 2017, there were 442,995 children residing in foster care in the United States. These numbers have been increasing steadily over the past five years (U.S. Department of Health and Human Services, 2018). A total of 25,441 Pennsylvania children were in foster care placement in 2018. Pennsylvania Partnerships for Children reports an 18.5% increase in the number of children placed in foster care in Pennsylvania from 2013 to 2017; this slowed to a 13% increase for the most recent 5-year period. Historically, there have been a shortage of foster families to meet the needs of the number of children in the system (Bass, Shields, & Behrman, 2004), causing an imbalance in supply and demand.

Solutions

What can we do to address the inadequacies of the foster care system? We know that the need for foster care, as currently defined, outweighs the supply of foster homes. The first step is to acknowledge that the solution is far beyond the construct of our current system of out-of-home placement. I would suggest that three simultaneous strategies are necessary.

I. A New Focus on Prevention

The first strategy is to decrease the need by focusing on preventing out-of-home placement. By limiting the number of children who enter care so that only those that are truly in need are placed will allow the child welfare system to best use the limited resources at hand. Traditionally, prevention efforts have been defined as in-home or other interventions to keep families together. What we need to do is divert families from involvement in the child welfare system in the first place.

1. **We must invest in anti-poverty efforts.** Poverty is one of the strongest and most consistent predictors of child maltreatment. In a study examining the effect of seven different variables on specific types of child maltreatment, only poverty and age of the mother were predictors of all types of child abuse and neglect. Numerous studies found that low socioeconomic status (SES) families have the highest rates of child maltreatment. Although child maltreatment is found in families at all income levels, there is a significantly higher level of child abuse and neglect of children living in homes classified as low SES. The U.S. Department of Health and Human Services found in its 4th National Incidence Study of Child Abuse and Neglect (NIS-4) that children living in homes with annual incomes of \$15,000 or less were five times more likely to be at risk of child maltreatment than those with incomes of \$30,000 or more. The vast majority of reports of child maltreatment, approximately 80% in any given year, are for child neglect. The child welfare system focuses far too many of its limited resources on the outcomes of poverty. No child should be removed from his or her parent's care because of poverty, yet this happens each and every day. If we could spend money, for example, on helping a

family to fix their home rather than placing their children in foster care, we would reduce family trauma while also saving taxpayer dollars. There needs to be a shift in priorities to help lower SES families meet their own basic needs. An investment in reducing poverty is an investment in reducing child maltreatment.

2. **All too often, when there is a tragic death of a child known to the child welfare system, there is a spike in the number of placements as a response.** When one works in a system where fingers are constantly pointed and society looks for someone to blame, it is not surprising that agency staff revert to a self-preservation mode. It is human nature. Society does not look to blame physicians, law enforcement, firefighters, or other professionals when a tragedy happens in their line of work, but that is the first response when a child dies due to abuse or neglect. We need to view and treat child protective services as a professional role and support these first responders with the tools they need. If we change the narrative, caseworkers and administrators will be empowered to make good decisions rather than merely react to the fear of liability and remove children because it is safer for the agency and its staff.
3. **We need to reframe how we deliver services.** Children and families do not live within individual silos or systems. They reside in the real world and are touched by the health, education, drug and alcohol, mental health, and other systems of care. We need to focus our planning and funding on cross-system solutions that divert families and children from the child welfare system by instead offering community-based prevention services that cut across traditional boundaries.

II. Reimagine Recruitment

The second strategy is to develop new and innovative recruiting strategies to increase the number of trained and qualified foster parents. Despite the recent focus, or “solution du jour,” of recruiting relatives to provide foster care, there remains a significant need for non-relative homes that will not be met by efforts such as Family Finding. Recruitment of foster parents is an ongoing challenge for a variety of reasons. Foster parents must navigate complex systems of care and develop relationships with both birth parents and professionals, often with little support (Geiger, Piel, and Julien-Chinn, 2016). Many do not remain as foster parents long-term (Gibbs & Wildfire, 2007), creating the need to develop new homes on an ongoing basis. Foster parents have historically been treated as “second class citizens” by the child welfare system. We must start looking at foster parents as part of the professional team and recruit them as such. A multi-pronged approach for recruiting and retaining foster parents is critical to address systemic needs for a robust pool of foster homes. An effective recruitment strategy requires a conscious effort to promote positive messaging and branding about the role of foster parenting, such as the national *Quality Parenting Initiative* model which has recently been adopted in Philadelphia. Targeted recruitment toward specific professions, ethnic groups, faith-based institutions, and geographies is also a promising recruitment approach.

III. Focus on Retention of Quality Foster Homes

The third strategy is retention of foster homes. Foster parents cease to remain active for a variety of reasons, including burnout, frustration with the child welfare and court systems, negative impact on their own families, finances, and adoption of their own foster children. Clearly defining

the role and expectations of foster parents and providing an opportunity to reflect on their role promotes higher satisfaction with the demands of foster parenting and increases retention rates (Piescher et al., 2008). Children who enter foster care bring with them a myriad of challenges. We need to support foster parents with adequate training, resources, and supports if we expect them to be successful and continue to do this difficult work. Building social support through connections with other foster parents and support from agency workers promotes a sense of community and belief in individual capacity and increases satisfaction (Rodger, Cummings, & Leschied, 2006; Piescher et al., 2008). Group-based trainings that build behavior management skills and parenting strategies also show promise in increasing retention rates (Macdonald & Turner, 2005; Pacifici, Delaney, White, Cummings & Nelson, 2005; Turner, Macdonald, & Dennis, 2007; Piescher et al. 2008). One innovative approach, the *Mockingbird Family Model*, creates an extended family community designed to support, develop, and retain quality foster families with an experienced foster “hub home” as a resource for a group of foster homes.

We will only be able to address the foster care crisis if we are willing to think outside the box and re-examine old assumptions. Many of the recommendations I have offered rely upon culture change, something that does not happen overnight. But if we are to move forward as a field, we cannot rest on the policies and practices of yesterday. We need to invest in tomorrow. Children’s lives depend upon it.

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September 9, 2019

Testimony submitted by:

Sarah Wasch, MSW
Program Manager
The Field Center for Children's Policy, Practice & Research
University of Pennsylvania

Thank you to Representative Kristine Howard and members of the Committee for hosting this hearing. My name is Sarah Wasch, and I am the Program Manager at the Field Center for Children's Policy, Practice and Research at the University of Pennsylvania, where I received my Masters of Social Work degree over a decade ago. I have held caseworker and supervisor roles in Philadelphia's foster care system, and I am currently a licensed foster parent of an older youth.

At the Field Center, one of my roles is to coordinate the "Foster Care to College" initiative which aims to increase access to and success in higher education for foster youth. We have convened a workgroup comprising over 50 stakeholders across public and private systems to address gaps and opportunities, and we proudly count among our successes the establishment of new campus-based support programs for students who have experienced foster care and the recent passage of legislation to provide tuition waivers for foster youth in Pennsylvania.

Children who are placed in foster care, and particularly young adults who age out of foster care, often face a future fraught with poor outcomes. These young people are less likely to graduate high school on time, or at all. They are more likely to experience homelessness, mental health challenges, decreased job security, substance abuse, and criminal justice involvement.¹

Higher education is an investment that yields a net positive return for both the individual and society. People who attend or complete college have higher incomes – and thus contribute more in taxes. The University of Chicago's Chapin Hall found that, with a 4-year college degree, foster youth could expect to earn an average of \$481,000 more over the course of their lifetime than if they only obtained a high school diploma, and that any college attendance would increase their lifetime wages by an average of \$129,000.² Higher education reduces one's likelihood of being unemployed. Adults with a college education engage in healthier behaviors and are less likely to rely on public assistance.³

For foster youth in particular, higher education offers an opportunity to circumvent the poor life outcomes often experienced by young people who were in out-of-home care. Not surprisingly, foster youth who have completed a post-secondary degree display greater gains in adult life circumstances than the general foster care population.⁴

Historically, foster youth are often not viewed as college material. Frequent placement moves and school changes, a history of trauma, and disproportionate absences result in lower graduation rates and fewer foster youth being offered college preparatory courses.⁵ Despite this, research tells us that approximately 70% of foster youth desire to attend college, yet they attend at less than half the rate of their peers. For those who do attend, the majority do not make it past their

¹ Courtney, M. E., & Heuring, D. H. (2005). The transition to adulthood for youth "aging out" of the foster care system. *On your own without a net: The transition to adulthood for vulnerable populations*, 27-67.

² Peters, C., Dworsky, A., Courtney, M., & Pollack, H. (2009). Extending Foster Care to Age 21: Weighing the Costs to Government against the Benefits to Youth. Chapin Hall at the University of Chicago.

³ Gross, J. P. (2019). *Former Foster Youth in Postsecondary Education: Reaching Higher*. Springer.

⁴ Salazar, A. M. (2013). The value of a college degree for foster care alumni: Comparisons with general population samples. *Social work*, 58(2), 139-150.

⁵ Dworsky, A., & Perez, A. (2010). Helping former foster youth graduate from college through campus support programs. *Children and Youth Services Review*, 32(2), 255-263.

freshman year.⁶ In Pennsylvania, nearly three-quarters of first year Chafee grant recipients do not return, and national studies reveal that less than 10% of foster care alumni ever obtain a Bachelor's degree.

Children enter foster care through no fault of their own. Once they are removed from their families of origin, they become the responsibility of the agency charged with their care. As a society, these are our children. And yet, for every metric you can imagine, including higher education which is the focus of my testimony today, foster youth fare worse than their peers.⁷ We are failing them. Caseworkers, foster parents, schools, and other key individuals in the lives of youth hold great potential to shift the dominant culture of thinking around foster care. We need to ensure that young people in the system are provided with the support, tools, curriculum, and resources to prepare them to view college as an option.

Luckily, there are interventions available that can positively impact the educational trajectory for foster youth. One approach that is gaining popularity across the nation is the development of campus-based support programs for foster youth. By providing concrete services on campus that can include a single point of contact, mentorship, designated financial aid support, housing during breaks, scholarships, and social and academic supports, foster youth can receive the assistance they need to stay in school and graduate.

Since 2016, the Field Center has helped launch programs on 17 different college campuses across Pennsylvania to support students with experience in foster care. Our approach is unique in our desire to provide foster youth with a diverse set of higher education options. Like any young person, foster youth should have the opportunity to attend a school that is the best fit for them; this increases their chances for success. Our campus partners represent community colleges, public four-year institutions, and private colleges and universities. It is our hope that professionals working across our state's child welfare system encourage their clients in foster care to consider and explore college, and take advantage of the diversity of campus programs that can support them.

Providing on-campus support will only be an effective tool if foster youth possess the financial means to enroll in and attend college in the first place. Lack of access to funds, lack of support from family to pay for school, and minimal awareness of financial aid options impacts these students' ability to matriculate and complete school.⁸ Foster youth often need to work to support themselves financially and cannot meet the academic requirements to qualify for financial aid.

Tuition waivers are a legislative intervention that can drastically impact a foster youth's ability to afford higher education. A 2017 review by Education Commission of the States reported that 28 states offer some form of state-level tuition waivers or scholarships for foster youth.⁹ The Field Center, alongside various partners, worked on drafting tuition waiver legislation for

⁶ Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care. National Working Group on Foster Care and Education. April 2018.

⁷ Courtney, M. E., Dworsky, A. L., Brown, A., Cary, C., Love, K., & Vorhies, V. (2011). Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 26.

⁸ Gross, J. P. (2019). *Former Foster Youth in Postsecondary Education: Reaching Higher*. Springer.

⁹ Parker, E. & Sarubbi, M. 50 State Review: Tuition Assistance Programs for Foster Youth Pursuing Postsecondary Education. Education Commission of the States, 2017.

Pennsylvania, which was recently enacted as part of the School Code in the budget that was passed in June. This important legislation, the Fostering Independence Through Education Act, positions Pennsylvania ahead of many other states with its innovation to include private institutions as well as public schools. This reinforces our belief that foster youth, like all students, can succeed best when they are provided a diversity of opportunities and choices.

Beginning in the Fall of 2020, anyone who was in foster care in Pennsylvania after the age of 16 will be able to attend college in Pennsylvania tuition-free. The legislation also requires that every institution in the state designate a Point of Contact for foster youth, to help them identify and apply for financial aid and scholarships, gather verification documents, and access campus and community resources and services. Finally, the legislation requires both institutions and government agencies to collect and analyze data on the utilization of tuition waivers, to improve retention and student success.¹⁰ These components are essential to maximize impact and to ensure that the legislation is producing the intended result.

Although this is a wonderful example of how the legislature can make a difference in contributing to improved outcomes, a notable shortfall of the legislation is that it focuses on tuition only. The waiver kicks in after all other grants and scholarships have been applied to the school's tuition, leaving students without financial support for room and board, a crucial component of postsecondary success and often a significant barrier to perseverance for foster youth. The tuition waiver legislation in Connecticut, for example, provides eligible students from foster care with a full cost of attendance waiver, making it possible for them to attend college without worrying about food or housing.

We are thrilled that Pennsylvania has taken the first step in addressing the financial needs for foster youth, but we have an opportunity to pass more comprehensive legislation to address some of the gaps that often contribute to a failure to complete college. Specifically, if the Fostering Independence Through Education Act provided a waiver of the full cost of attendance at eligible institutions, which would include tuition, room and board, and other costs of attendance, a major barrier to college access and success for foster youth would be removed. Additionally, as the eligibility criteria for the tuition waiver is tied to the eligibility for the Chafee Education and Training Grant, a new opportunity to examine expanding the age of Chafee eligibility as provided by Federal Law presents itself.

As a professional community we have an obligation to ensure that young people in foster care have access to higher education, the tools and resources to succeed in college, and a system that believes they are worth it. The legislature has an opportunity to invest in improving outcomes for foster youth – an investment that benefits all of us.

¹⁰ The General Assembly of Pennsylvania, House Bill No. 1615, Session of 2019.

**HOUSE OF PENNSYLVANIA
DEMOCRATIC POLICY COMMITTEE**

September 9, 2019

CHILDREN AND YOUTH SERVICES

**Testimony of
Frank P. Cervone, Esq., Executive Director
Support Center for Child Advocates**

The Support Center for Child Advocates is Philadelphia's lawyer pro bono program for abused and neglected children. We offer the skills and dedication of lawyer-social worker teams, and we represent more than 1,100 children each year. *Child Advocates'* legal and social services are offered to child victims through Direct Representation Services and Child Advocacy Leadership and Training. For more than 42 years, we have served as a resource to this Legislature and its staff, and I thank you for the invitation to serve in this role once again. When asked, we attempt to offer to you a balanced, candid and constructive assessment of what our children need and how we are all doing for our kids.

I would like to recognize my colleague Cathleen Palm of the Center for Children's Justice for her invaluable assistance and her important advocacy. Today I would like to highlight issues in the following topics of interest:

- Fatality Review—Act 33
- Families First Legislation and Child Abuse Prevention
- Substance Exposed Children and Plans of Safe Care
- Office of the Child Advocate
- Legal Representation of Children and Parents
- Rights and Experiences of Children at the Bureau of Hearings and Appeals
- Foster Child Bill of Rights
- Discrimination Based On Sexual Orientation In Foster Care/Adoption

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Fatality Review—Act 33: Act 33 of 2008 requires that child fatalities and near fatalities where abuse is suspected to be studied, with such study occurring via a timely yet independent mechanism from the legally required investigation conducted by child welfare authorities, alone or in partnership with law enforcement. At a state level, the cohort of child fatalities and near fatalities getting studied are those where at the time of the incident there was reasonable cause to suspect child abuse. Meanwhile, at the county level a multidisciplinary team that is chaired by a person who is not from the child welfare system itself, such incidents are studied where child abuse has been substantiated or no decision was made within 30 days of the child's fatality or near-fatality being reported. The law, by design, creates a broader pool (via the suspected trigger) of child fatalities and near fatalities to review by the Pennsylvania Department of Human Services (PA DHS), because researchers

reinforce there is as much to learn about protecting children and preventing lethal incidents for children from those incidents that are never substantiated as child abuse. This is, in part, because substantiating child abuse can be subjective, impacted by bias. The child who gains access to an unsecured firearm and kills himself or his sibling may be considered abuse in one county, a tragic accident in another.

An incredibly important piece of law, Act 33 was written so Pennsylvania prioritized preventing what so often were preventable deaths and near-deaths of very young children and to promote transparency and accountability by granting public access to information related to each child fatality and near fatality where abuse is suspected. Sequential reports are issued by the county and by PA-DHS. Upon completion of the PA-DHS review, a final redacted “state” report is posted to <http://www.dhs.pa.gov/publications/childfatalitynearfatalityreports/> unless the district attorney in the investigating county certifies that release of the report may compromise a pending criminal investigation or proceeding. The county reports must be obtained from the county itself.

Today the Act 33 review process is robust everywhere in the Commonwealth. I urge you to study the recent recommendations of the PA-DHS Child Abuse Fatality and Near Fatality Trend Analysis Team, on which I have the pleasure of serving with public and private colleagues. See: http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_286808.pdf. In the Legislative and Policy Change area, these include: a. review and refine child abuse and neglect investigation and assessment policies and practices for incidents involving a child age four or younger; b. enhance statewide policy and guidance regarding General Protective Service (GPS) screen out guidelines and protocols for county children and youth agencies; c. develop policy guidance on when it is critical to consult with medical professionals for the evaluation of suspected child abuse or neglect; and d. amend the CPSL to extend CPS and GPS expungement timeframes to allow for a more comprehensive understanding of a child and/or family’s prior child welfare involvement as this is known to be a key indicator of future abuse.

There is also a call to amend the CPSL to streamline and eliminate duplication in the fatality and near fatality review process, allowing for a more comprehensive assessment. But I recommend a different focus: move to ensure that transparency, accountability and child abuse prevention remain at the core of the Act 33 process. Several advocates and physicians and journalists across the Commonwealth, myself included, regularly study the state and county reports. Increasingly, they are full of broad and sweeping redactions which frustrate attempts at understanding what happened in the case and to evaluate the quality or legitimacy of the recommendations being made – some of which increasingly appear out-of-context, not aligned by the very circumstances of the child’s life and death.

Consider the death of a young child in Bucks County (*Advocates: Bucks, Pennsylvania reports missed day care violations in Bristol Township toddler death*)¹. The child died strapped in her car seat while in the care of a child care provider. The resulting Act 33 recommendations included²:

- Educate new parents on appropriate car seat installation.

¹ <https://www.buckscountycouriertimes.com/news/20180401/advocates-bucks-pennsylvania-reports-missed-day-care-violations-in-bristol-township-toddler-death>

² http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_269132.pdf

- Hospitals should provide mandatory car seat installation education/checks upon child discharge.
- Educational campaign regarding never leaving child unattended in car seats/carriers.

It was investigative journalism, not the fatality review process that pursued critical questions and recommendations about child safety while a child is in the care of a paid child care provider as well as how the state oversees the quality and licensing of child care programs. More than a decade after the law took effect, some counties remain very reluctant to share their reports at all. And screening practices at ChildLine has created questions about whether some cases of suspicious deaths are being screened out without study (affecting the subsequent recommendations for prevention and public disclosure provisions). Any statutory construction arguments should be resolved openly and thoughtfully, because if we do not study these sentinel events for children to come to understand what went wrong, we are more likely to fail in efforts to prevent the mistake from happening again!

On a related note: House Bill 78 currently proposes to limit public access to Act 33 reports in unsubstantiated cases – a direction we find unwise. I direct your attention to recent reporting by Nathaniel Lash and Pranshu Verma for *The Philadelphia Inquirer* (“After 2 Deaths In 11 Days, Medical Facility For Fragile Kids Gets Another Chance.”) that illustrated how critically important it is for state policy, to promote, not foreclose public disclosure when children die. In this reporting you will see two children, similar in how they were medically fragile residing in the same facility both died – both were reported as suspected child abuse, but only one was substantiated. I raise this not to invite any questions related to the outcome of the investigations, but to underscore that there were lessons, including related to the operations and oversight of state licensed facilities for very vulnerable children, in both cases but enactment of House Bill 78 would treat them differently with regard to public disclosure. It already requires detective work and investigative journalism to piece together critical pieces of information that should be readily available elements of Pennsylvania child fatality prevention strategies.³

Also on CPSL (but not related to Act 33 per se): You and your colleagues have worked in a bipartisan and with a neat coalition of diverse stakeholders to advance clean slate reforms so that earlier convictions do not present a hurdle to a person securing gainful employment – employment that allows them to care for and contribute to their family. Still, not yet studied or addressed, is the way in which being named as an indicated perpetrator of child abuse equally undercuts a person’s ability to gain employment or to even attend school events as a present and engaged parent. PA law provides very limited opportunity to come “off” the Child Abuse Registry and thus individuals placed on it essentially remain on it for life.

* * * * *

Family First: The Family First Prevention Services Act (FFPSA) of 2018 is federal legislation that is expected to reshape child welfare funding to promote prevention services for children at imminent risk of out-of-home placement. It also sets criteria to promote placement in high-quality family foster care – including kinship care – and limit the use of congregate care setting unless needed for time-

³ <https://www.inquirer.com/news/pediatric-specialty-care-fragile-child-death-philadelphia-dhs-pennsylvania-20190830.html>

limited treatment. The intention of funding these prevention services is to safely keep families together. Parents, advocates, child welfare agencies, providers, and state leaders all can be a voice to ensure that implementation is strong and robust and aims to strengthen families. The fact sheet from PA Partnerships for Children is an excellent resource. <https://www.papartnerships.org/wp-content/uploads/2019/06/FFPSA-Fact-Sheet.pdf>.

It is good that we might increase focus on child abuse prevention, because honestly the data suggests we have not done enough. The 2018 Child Abuse Report observes that Statewide substantiated reports of child abuse increased from 1.8 per thousand children in 2017 to 1.9 per thousand children in 2018. There were 47 substantiated fatalities from child abuse and 89 substantiated near fatalities in 2018, both increases—the 47 deaths is the most in recent memory.

http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/c_289620.pdf. The placement rate, of children being removed from the families, remains static and high.

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Substance Exposed Infants and Plans of Safe Care: Some members of this Caucus were present for the House Children and Youth Committee Hearing on March 27, 2019. My written testimony was submitted. We know from the decision of the Pennsylvania Supreme Court in December 2018 (*In The Interest Of: L.J.B., A Minor*) that prenatal substance exposure is not child abuse as defined by Pennsylvania's Child Protective Services Law (CPSL). Some of my remarks today come with that court decision in mind, with sensitivity that some in the legislature and in the community may be interested in a different, more punitive, course. In the medical model, treatment not punishment, is the remedy to reduce consumption of substances during pregnancy. Criminalizing pregnancy cannot be a good idea.

I would only reiterate that Pennsylvania's existing mechanisms can sufficiently protect the safety of substance-exposed infants and children, without the need to characterize the events as child abuse. Consistent with federal law, Pennsylvania law requires health care providers to provide notification (notification that is well understood and articulated in state law as not equal to a child abuse report) to ChildLine so that the infant and the infant's family can be connected to a plan of safe care. Whether all substance-exposed births are getting reported, and whether there are any biases or other irregularities in the patterns of these reports and assessments, and whether the individualized Plans of Safe Care are effective in defining and delivering on needed services, are among the questions that might be studied by an Opioid Abuse Child Impact Task Force (HB316). Also this committee might seek to understand how Pennsylvania is directing the additional federal Child Abuse Prevention and Treatment Act (CAPTA) plan of safe care funding supported by Congress, with strong leadership from U.S. Senator Bob Casey. Congress has rarely increased CAPTA funding, but in recent years (federal fiscal years 2018 and 2019 at least) there was \$60 million more to aid states in advancing prevention-focused, non-punitive plans of safe care for infants affected by prenatal substance exposure. Pennsylvania is receiving a share of this newly secured increase and it would be worthwhile for this committee to understand how it is being utilized by PA DHS.

I want to thank and congratulate you and your House colleagues for supporting House Resolution directing Joint State Government Commission (JSGC) "to conduct a study on warm hand-off to treatment for individuals with a substance use disorder." We would urge this work to intentionally address the unique and specialized needs of women who are pregnant or in the postpartum phase at

the time of an overdose. Also to be considered should be a warm handoff for children present at the time of a parent or caregiver's overdose. Earlier this year, the Center for Children's Justice (C4CJ) and the Pennsylvania chapter of the American Academy of Pediatrics (PA-AAP) conducted the most comprehensive survey to date of Pennsylvania emergency medical service (EMS) providers (n=640). Of all survey participants, 82.5% responded to at least one opioid-related overdose in the past year where a child was present at the scene, and about 50% said that children are frequently present.

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Office of the Child Advocate: Pennsylvania needs a Children's Ombudsman – and we have been saying so for almost 20 years! [See my testimony before House C&Y Committee on June 19, 2018 for details.] Now finally we are making progress. Following the troubling series of abusive incidents at Wordsworth and Glen Mills, Governor Wolf has announced creation of the Office of Advocacy and Reform and the full-time hire of a statewide Child Advocate.

<https://www.governmentjobs.com/jobs/2511137-0/child-advocate-office-of-advocacy-and-reform>. I hope that you will support the creation, mandate and permanence of this important role.

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Legal Representation of Children and Parents: Improving the quality of lawyering for children and parents who are subject to dependency petitions in Juvenile Court has been a statewide priority for more than a decade. Much of the work has been centered in the PA Children's Roundtable Initiative. Now one of the hottest topics in child welfare lawyering is the recent announcement by the federal Administration of Children and Families (ACF), the entity that oversees the federal share of child welfare funding, to allow federal funding of parent and child representation. Currently only the Commonwealth and the counties bear the costs of representing children, and no state funds are used for parent representation. There is an important dialogue now underway to understand how best to use the new federal funding in PA to achieve high-quality representation. It is unclear to me whether state legislation will be needed, aside from budgetary approval.

Excellent resource: Children and parent lawyers in PA are part of a national initiative, the Family Justice Initiative (FJI), to improve the quality of practice. The FJI website launched just last month and will be a good resource for legislators as well. The goal for the site is to provide resources and build a community of support for high-quality legal representation for children and parents among parents' and children's attorneys and with the broader child welfare community. The website includes:

- Information on a recent federal ACF Child Welfare Policy Manual change that allows states to seek federal reimbursement of the cost of legal representation for children and parents;
- FJI demonstration sites and data collection tools;
- Summary of existing research in the field of parent and child legal representation;
- FJI Attributes of High-Quality Legal Representation for Children and Parents; and
- Recent News page, highlighting recent developments in the child welfare legal field.

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Bureau of Hearings and Appeals: We have serious concerns about the legal rights and emotional experiences of children who are involved in administrative law challenges (“expunctions”) to the investigative findings pursued by alleged perpetrators. These children, allegedly victimized in the initial abusive event, are called to testify again in Bureau of Hearings and Appeals (BHA) proceedings, and even cross-examined by their perpetrators, without benefit of legal representation or victim advocacy supports. We worked recently with staff of State Senator Tim Kearney, on a constituent inquiry: an eight-year old boy who reported sexual abuse by his father, was subpoenaed to testify in his father’s BHS appeal – and be cross-examined by the father, who was representing himself!

BHA adjudicates challenges filed by “indicated” subjects of child abuse reports. The Bureau and its Administrative Law Judges (ALJ) express a commitment to provide fair hearings to all parties that come before it, and further express the goal that all witnesses, especially children in child abuse expunction cases, feel as comfortable as possible when testifying during BHA proceedings.

However, under the current statute and BHA procedures, children are not parties to the BHA appeal, and thus do not receive notice of BHA hearings or the right to be represented. The case is litigated by lawyers representing the county C&Y agency or PA-DHS; if this government lawyer decides to concede or drop the case, the child has no right or opportunity to object. Neither the child nor his/her representative may participate in the proceeding unless a party requested the presence of the subject child for the purpose of eliciting the subject child’s testimony. Child Abuse Expunction hearings are closed; only the parties, their counsel, and the witness who has been called to testify are permitted to enter the courtroom. It is BHA policy that all other interested parties must remain outside of the hearing room when testimony is being given.

The current rationale for these rules in the Child Abuse Expunction process is that the affected person is the perpetrator, whose reputation and livelihood are affected by the outcome of the case. But we believe that the child is also affected, both by the process and by the outcome, and the law should be reformed to protect the children as well.

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Foster Child Bill of Rights: More than 12 years ago, Representative Phyllis Mundy led an important but unsuccessful effort to pass the “Children in Substitute Care Act” (HB302 of 2007). Most of the provisions would later be enacted as Act 119 of 2010 (HB2338 of 2010). There were many important provisions of both bills, and in the enacted legislations, requiring county and private agencies and resource parents, or foster parents, to provide children in substitute care with fairness, dignity and respect. But two features of those initiatives remain unrealized: first, the key difference between the enacted 2010 legislation and the failed 2007 bill was the ban on discrimination because of sexual orientation. Except for the few counties that have enacted local rules or laws, it remains legal and supported for both agencies and caregivers to discriminate against children because of their sexual identity. Second, Act 119 requires provision to children of information on their rights and their opportunity to have their grievances heard. This is just not happening. Now all kids in care have lawyers, known as guardians *ad litem*; but we all know that children may simply not tell when something bad is happening to them. We should work harder to empower them.

Discrimination Based on Sexual Orientation in Foster Care/Adoption: Catholic Social Services (CSS) of the Archdiocese of Philadelphia and several foster parents filed a lawsuit in federal court in Spring 2018 challenging the City of Philadelphia's prohibition against foster care agencies that refuse to place children with LGBTQ couples. The case is known as *Fulton and CSS v. City of Philadelphia*. The Support Center for Child Advocates successfully intervened as defendant on behalf of our child clients, along with another organization Philadelphia Family Pride who supports gay and lesbian parents and families, to oppose the plaintiffs' position and defend the need for children to have as many possible placement resources as possible.

This case seeks to allow faith-based agencies to continue their policy of excluding LGBTQ couples from becoming certified to serve as foster parents. To date both a federal district court and the Third Circuit Court of Appeals have found in favor of the City's and our position, and CSS has now sought review by the U.S. Supreme Court, a review which we oppose.

We believe it is important to preserve the City's ban on discrimination against sexual minorities. *Child Advocates* intervened as a defendant to assert and protect the rights of our child clients to live with caregivers of all identities and backgrounds, and to affirm the value of all families. As well, for some youth, it is important to have the support of an LGBTQ caregiver, and for gay youth who are being raised in foster care, we must acknowledge that they too may become parents themselves, and we must account for the message we give them about their dignity and identity.

Further litigation is anticipated, as the issues raised in *Fulton* present a potential test case for both the Trump Administration and the United States Supreme Court. Also, in January 2019, the U.S. Department of Health and Human Services granted special permission to federally-funded child welfare contract agencies in South Carolina to discriminate against prospective foster and adoptive parents based on their religious beliefs.

The statement of the ACLU, which represented *Child Advocates* and Philadelphia Family Pride, can be found at the following link: <https://www.aclu.org/news/appeals-court-rejects-license-discriminate-child-welfare>. They note: "Religious liberty is one of our most fundamental freedoms, and it protects all of us from government interference in whether, when, and how we practice our faith. It does not entitle taxpayer-funded child welfare agencies to impose their own religious eligibility criteria on important government programs."

I urge you to consider enacting statewide legislation to ban discrimination based on sexual orientation in foster care and adoption. Seeking the most inclusive approach possible in order to find loving and stable homes appropriate for them, we felt compelled as an organization to intervene to defend the rights of LGBTQ individuals as well as the well-being of the children. We hope that you will too, to open more doors to the many children looking for stable and loving homes, as well as show the rest of the country the kind of inclusive and welcoming place Pennsylvania truly is.

For more information:

Frank P. Cervone, Executive Director
Support Center for Child Advocates

1617 John F. Kennedy Boulevard, Suite 1200, Philadelphia, PA 19103

t: (267) 546-9202 f: (267) 546-9201

e: fcervone@SCCALaw.org www.SCCALaw.org