

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:30 p.m. on March 2, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Rob Olson- excused  
Representative Mike Peterson- excused

Committee staff present:

Mike Heim, Office of Revisor of Statutes  
Jason Long, Office of Revisor of Statutes  
Julian Efirid, Legislative Research  
Martha Dorsey, Legislative Research  
Amy Deckard, Legislative Research  
Nikki Feuerborn, Committee Assistant

Conferees appearing before the Committee:

Katrin Osterhaus, Legislative Post Audit (Attachment 1)  
Nina Williams-Mbengue, National Conference of State Legislatures (Attachment 2)  
Sheri Steisel, National Conference of State Legislatures (Attachment 3)

Others attending:

See attached list

Representative Bowers moved for the introduction of legislation regarding the waiver fee fund for Kansas Health Policy Authority. Motion was seconded by Representative Fund. Motion carried.

Representative Kiegrell moved for the introduction of legislation regarding the privacy of identification cards, and driver's licenses within the Department of Revenue. Motion was seconded by Representative Brunk. Motion carried.

Katrin Osterhaus, Legislative Post Audit, reviewed Audit #08-04 regarding the state's contracts for foster care and family preservation services (Attachment 1, Audit on file in Legislative Research). She reported that SRS and the Division of Purchase did not always follow appropriate procedures and cited the example of the Farm who raised their bid after receiving "inside" information regarding other contractor's bids. The audit confirmed that contracts awarded to the Farm were used for appropriate purposes. Their salaries were in line with the other contractors. Information was not available about such a comparison within other sectors. There was a \$500,00 transfer to the Foundation which was questioned as it was listed as an expense thus decreasing the profit from \$2.5 million to \$2 million.

Ms. Osterhaus then reviewed Audit #09-02 (on file in Legislative Research) which deals with whether social workers were being pressured to include or exclude facts in applications for petitions. By confidential survey, it was determined that at least one social worker in every SRS region had experienced this. Social workers in the Sedgwick County area responded more negatively which was due to having to speed up their investigation due to the county shortening the time for hearings. Social workers appeared to have strong disagreement with the attorney's office on CINC cases and feel their recommendations are not always followed. Lack of training for social workers in the CINC arena especially in dealing with attorneys and the court system was reported. There are high turnover and vacancy rates in the Wichita and Kansas City areas.

Nina Williams-Mbengue, National Conference of State Legislatures, provided an overview of child welfare from the national and state perspectives (Attachment 2). In the U.S. Child Maltreatment Report of 2007, Kansas ranked twice the rate of the national average for maltreatment for children from birth to one year. Other than that statistic, Kansas was ranked among the highest in the Child and Family Services Review of 2008 when compared with 32 other states. Ms. Williams-Mbengue described a child's journey through the child welfare system with the hope of reunification, adoption or permanent legal guardianship being established.

During Committee discussion they requested the following information:

## CONTINUATION SHEET

Minutes of the House Federal and State Affairs Committee at 1:30 p.m. on March 3, 2010, in Room 346-S of the Capitol.

- The number of children in Kansas who have been removed from their homes for other than maltreatment.
- Information and success rates on privatization of foster care vs. state operated programs in other states, and program which are administered by the community or county. Funding information was also requested. It was pointed out that services vary from county to county.

Sheri Steisel, National Conference of State Legislatures, reviewed the federal funding procedures and requirements (Attachment 3). The impact and effect of Public Law No: 110-351 regarding the foster care system within the U.S. which includes:

- Options for subsidized guardianship payments for relatives
- Incentives for adoption
- De-linking adoption assistance
- Use of kinship
- Family connections grants
- Federal support for youth up to age 21
- Tribal foster care/adoption access

The need for emphasis on performance-based results for contractors has been part of the privatization system developed in Kansas which has served as a model for any states. Areas for improvement within the system are child and family services, working with the courts, placement, and permanency outcomes. Ms. Steisel testified on the importance of fathers being involved in the foster care and welfare systems.

The meeting adjourned at 3:15 p.m.

The next meeting is scheduled for March 3, 2010.

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: July 2, 2010

March

NAME	REPRESENTING
Donald Porter	Parents and Childrens Justice
Phyllis Porter	Parents and Childrens Justice
Brad Hoff	Legislative Post Audit
Katrin O'Shea	!
Melissa Ness	St. Francis Community Services
Maureen Dembrow	Kansas Court Reform Coalition
Colleen Pederson	DCCA
Dusty Beece	Youthville
Shelley Duncan	Youthville
Mike Hoar	Youthville
Serena Wecker	KCSOV
JOYCE GROVER	KCSOV
Sarah Strick	KCSOV
Katny Wood	KCSOV
SHALA PEREZ	KHLAAC
Robin Clements	DCCA ! Youthville
Bruce Lybica	Childrens Alliance
Malissa Crivita	JCDW

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: 3/2/10

NAME	REPRESENTING
Paul Johnson	Kansas Catholic Conference
Claudine Dambrowski	Kansas Court Reform Coalition
THOMAS WITT	KANSAS EQUALITY COALITION
Catie Rech	KNASW
Kelsey Nipote	KNASW
Brenda Hoops	Hein Law Firm
Patrick Vegeberg	Kearney and Assoc.
TED HENRY	CAPITOL STRATEGIES
Richard Shank	All. for Kac. w/ Dev. Disab.
Peggy Smith	TFI
Zlati Pringle	TFI
Steve Solomon	TFI
Dawn Spencer	OJA
Mark Gleason	OJA
Erin Stucky	KVC Behavioral Healthcare
Earl Glyn	Franklin Center
<del>Dr.</del> Frankie Summers	
Kathryn Jenkins	605 Valley Rd.

ABUSE FREEDOM UNITED  
 " " "  
 Fred Carpenter  
 Hadie Carpenter  
 R.S. McKenna SRS  
 Janya Keys SRS  
 Candy Shurdy SRS  
 Don JORDAN SRS  
 KATY BELOT SRS

**Presentation #08-04**

Thank you, Mr. Chair, and members of the Committee!

This audit covered 2 questions regarding the States' contracts for foster care and Family Preservation services.

**Question 1 starts on page 7 - Were Appropriate Procedures Followed in Awarding Contracts To The Farm for Foster Care and Family Preservation Services in 2005?**

The short answer is that SRS and The Division of Purchases didn't always follow appropriate procedures. In May of 2004, SRS began soliciting bids for the new contracts. SRS used a negotiated procurement process, which is designed to provide the State with the best value, not necessarily at the lowest cost.

In evaluating the cost proposals, SRS realized that most bidders had estimated monthly case rates that were much higher than the target case rate the agency had calculated internally. In addition, The Farm was also the only bidder with caseload estimates that were similar to SRS, while the other agencies generally had lower estimates.

After narrowing down the bidders to one finalist for each region, the SRS held a second round of negotiations to discuss the caseload differences, but neither side conceded. The problem was that if SRS caseloads were right, and SRS agreed to pay contractors their asking price, it could increase total costs by an additional \$12 million. As result, SRS introduced a risk mitigation plan for the 3<sup>rd</sup> and final round of negotiations. Page 11 of the audit shows these concepts graphically.

Under the plan, SRS would pay the monthly case rates the contractor had proposed, but only until the contractor hit an SRS payment limit. After reaching that limit, contractors would only receive additional funding if their caseloads exceeded SRS estimates and then only at the SRS target case rate.

Because the Farm proposed case rates that were lower than the SRS target rates, SRS could have finalized negotiations with the Farm before dealing with the other contractors. However, and in an effort to treat all contractors equally, SRS shared

the **basic framework** of its risk-mitigation plan with all contractors, except that it purposefully withheld its target case rate information from The Farm. When they questioned the plan as not being advantageous to them, an SRS employee inadvertently disclosed the target case rate information.

As a result, The Farm realized its bid was significantly below what SRS was willing to pay. In the “best and final offers” submitted a few days later, The Farm had raised its rates to match those revealed during the meeting. Consequently, the State paid an additional \$2.9 million to the Farm during the first two years of the contract.

We also found three more minor instances where officials from SRS or the Division of Purchases deviated from best practices and requirements during other parts of the contract-awarding process, which are outlined on page 13.

**Question 2 starts on page 17 – Have Moneys from the Contracts Awarded to The Farm Been Used Only for Appropriate Purposes Related to the contract?**

The short answer is – yes, generally. In 2007, the Farm received \$23.5 million in contract revenues and spent \$21.3 million.

Because the contract doesn’t specify how moneys have to be spent, we reviewed the literature and talked to experts on expenditures for non-profits. We learned of three high-risk areas to check. Here’s what we found with respect to The Farm:

First, in terms of management compensation, The Farm’s 2006 salaries were in line with other contractors. If you look at the Figure on page 20, you see The Farm’s average salary was the midpoint with about \$135,000, with the CEO making a little over \$185,000.

Secondly, as best practices call for, The Farm’s board members didn’t receive direct compensation for their services in FY 2007.

Third, we found the Farm’s travel expenditures didn’t appear to be out of line, based on our review of the applicable expenditures and a targeted sample focused on high amounts or management travel.

Another concern prompting this audit was that the Farm's created several affiliate companies to increase management compensation. We learned that creating affiliate companies (for-profit and not-for-profit) is both common and acceptable because it allows non-profits to diversify and achieve greater financial stability, and that 3 of the 4 other contractors also have created affiliates. We saw no evidence the Farm used its affiliate companies to increase management salaries.

Another concern about the Farm's affiliates was that they could be used to divert money from the SRS contracts. We found The Farm had made a donation of \$500,000 to its Foundation at the end of the year to boost Farm's endowment so it could attract larger contributions. According to experts, donations among affiliates are acceptable.

The Farm's financial statements correctly disclosed the \$500,000 as a transfer. On the SRS financial reports it submitted to the State, the same transaction was reported as an expense. We didn't think that categorization was accurate because (1) the donation wasn't an operating expense (2) the Farm and the Foundation shared the same board of directors and key management staff, and therefore they never really lost control of these funds. By reporting this transfer as an expense, the Farm lowered its 2007 net profits from \$2.5 million to \$2 million on the SRS Report.

Presentation #09-02

Thank you Mr. Chair and Members of the Committee:

**Q1 starts on page 9: Have Social Workers Been Unduly Influenced to Include Information in Applications for Petition that Is Contrary to What their Investigations Showed?**

This concern arose after the Secretary of SRS was recorded as saying that social workers in Sedgwick County were being unduly pressured by attorneys. His assertion was publicized by the several newspapers in the spring of 2008. To investigate whether there's any truth to the allegations of bullying, which is difficult to prove, we primarily relied on a confidential survey instrument to the social workers.

**Our survey results showed that at least one social worker in every SRS region felt unduly pressured at some point to include or exclude facts in their applications that they felt distorted the circumstances of a case.**

As the figure on page 11 shows, the results were more negative for Wichita, which is shown in the second to last column:

- The top graph shows that 6 workers, or 25% of those responding, stated they occasionally had felt pressured to exclude facts.
- The bottom graph shows that 7 workers, or 29%, stated they had felt occasionally felt pressured to include facts.

A couple of historical issues are likely to blame for why social workers in Sedgwick county responded more negatively: First, social workers in that region had to speed up their investigations from what they were used to: Until 2007, the county interpreted existing statutes to allow 144 hours from the time a child goes into protective custody to the temporary custody hearing. However, the Legislature clarified that these hearings must be held within 72 hours. While other jurisdictions had already interpreted the timeframe as such, this clarification caused Sedgwick county's social workers to have to perform their investigations in half the time.

Secondly, social workers and judges from Wichita told us that the Attorney's Office *had* been more controlling in the past, this apparently being the case between 5-15 years ago. People described the current relationship as improved, open, and collaborative.



**Our survey results also showed that social workers in all six regions sometimes have strong disagreements with the attorney's office on how a CINC case should proceed:** The figure on page 13 shows our results in detail: Social workers in the West region had the greatest proportion of occasional or frequent strong disagreements, followed by Wichita.

Statewide, the two most frequent areas of disagreements social workers noted were

- whether a child should be removed from home, and
- whether or not the child should be declared in need of care.

**Survey comments show that social workers across the State clearly feel frustrated that their recommendations aren't always respected or followed.**

In the end, the decision about whether to file a petition with the court to remove a child from the home rests with the attorney. On the other hand, Wichita social workers made the point that they have direct contact with these families, which they feel puts them in a better position to make the right recommendation.

Judges and attorneys we talked to described these disagreements as natural, given the differing perspectives social workers and attorneys bring to the job. Some described it as a "clash of professions," while others described these disagreements as inevitable, and necessary for the system to work.

Our last finding in this question was that SRS hasn't adopted any policies or procedures to address the issue of perceived bullying at the time of our audit, even though the Secretary's comments had been made over a year ago, were serious, and had been publicized in several newspapers.

**Question 2 starts on page 20: Are Social Workers who Handle CINC Cases Qualified, and Do they Receive Sufficient Training to Work Effectively with the Attorneys and the Courts?**

The short answer in this question is that social workers are qualified, but don't receive consistent and sufficient educational training or initial and ongoing on the job training in working with attorneys and the courts.

**Our review of the social work programs offered at five Regents universities showed that only two universities require one course with a semester-long focus on working with attorneys and courts.**

**Initial on-the-job training social workers receive at SRS in the area of working with attorneys and the courts isn't uniform and structured, and largely insufficient.**

We reviewed the initial training activities social workers are supposed to accomplish and found that only a few training components help them learn how to work with attorneys and the courts. Moreover, these activities mainly involve shadowing or talking to supervisors and co-workers, which means two new people can learn different things, depending on who they learn from. Our survey results confirm that initial training is largely insufficient, with the details shown in the graph on the bottom of page 23

Our review of training documentation showed that SRS doesn't have a good system to ensure social workers actually complete the initial training curriculum at all, or within the first 90 days as required, doesn't provide enough guidance on how to fill out the training documentation, and that the training activities weren't properly logged in the agency's central training database.

**Ongoing on-the-job training in working with attorneys and the courts is inconsistent across the State:** SRS offers a wide range of training courses for their staff to meet continuing education hours. However, only some of these courses relate to legal or court-related activities and social workers may chose other courses over these. Our survey responses confirmed that social workers felt training in those areas to be insufficient.

**This gets me to the last question which starts on page 29: Does SRS have Sufficient Numbers of Social Workers to Handle CINC Caseloads?**

Our analysis showed that SRS social workers handled an average of 35 open cases a month during FY 2009. While several organizations developed caseload standards for social workers, we found we couldn't use them as our yardstick.

Here's why: SRS contracts out family preservation, foster care, and adoption services. Yet, because of its statutory responsibilities, SRS social workers still monitor these types of cases, and count them as part of their caseload. Because monitoring a case takes much less time than providing the direct services, the SRS caseloads will not be comparable to the benchmarks that are based on social workers performing all the work themselves.

We evaluated staffing and caseloads by studying trends across regions and found that caseloads aren't necessarily distributed equally, which is shown in the figure on page 32.

We also evaluated staffing and caseloads over time and found that caseload averages were relatively stable across the 3 years statewide, but were less stable within individual regions.

Lastly, we show turnover rates and vacancy rates by region on page 37: The top figure shows Kansas City Metro region has the highest turnover rate with 24% - shown in the top black bar. That's explained by the region offering more job and school opportunities for social workers. Vacancy rates are shown in grey: As of June of 2009, Wichita has the highest vacancy rate with almost 19%, followed by the KC Metro region.

With that, I conclude my presentation and stand for any questions you may have.

**Child Welfare System Overview:  
Overview of General Trends  
and Legislative Policy Options  
March 2, 2010 - NCSL**

House Fed & State Affairs  
Date: 3-2-2010  
Attachment 2

# Overview

- Part 1: Overview of Child Welfare
    - Children in Care in U.S.
    - Children in Care in Kansas
  - Part 2: State Policy Options, Trends, Best Practice
    - A Child's Journey through the Major Child Welfare Decision-Making Points
      - Initial contact with child protective services
      - Entry into foster care
      - Permanency
-

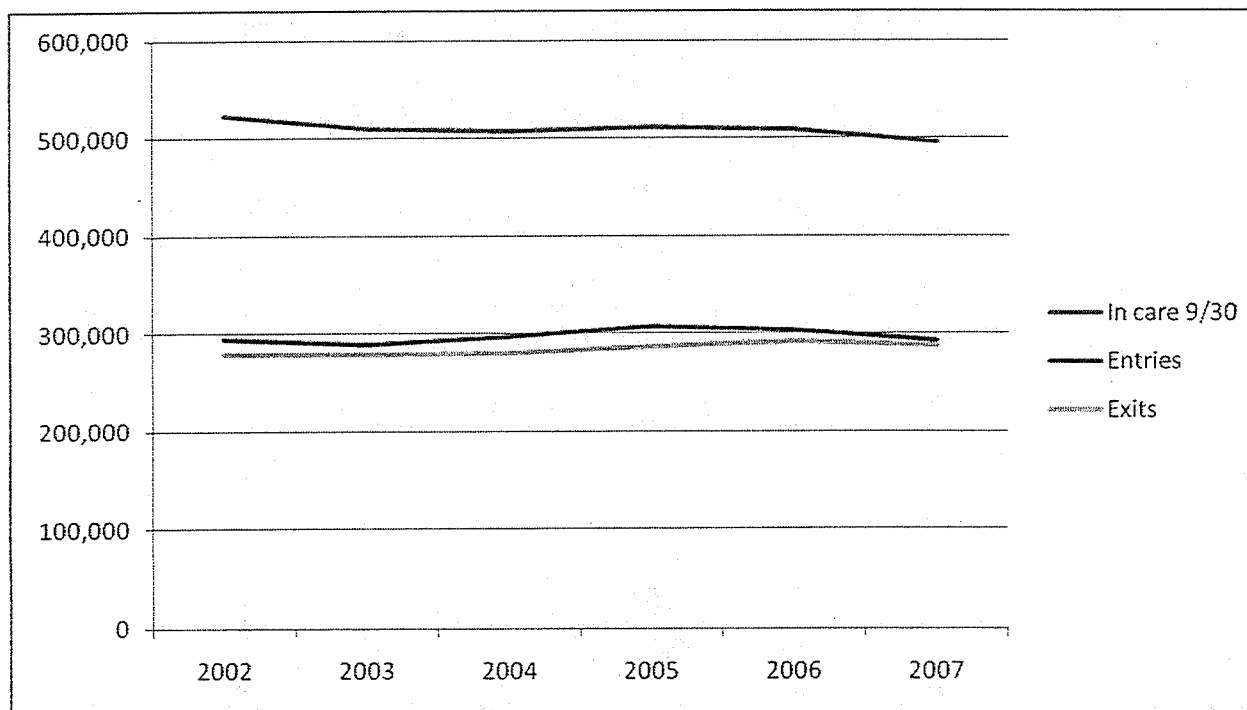
## U.S. Child Maltreatment Reports: 2007

- In 2007: 3.2 million child maltreatment reports (Kansas: 31,402)
- 62% screened in (Kansas: 53.9%)
- 794,000 confirmed victims; highest rate of victimization birth to 1 year (Kansas: 16,912)
  - 46% White; 21.7% African-American; 20.8% Hispanic
  - 60% neglect; 10% physical abuse; 7.6% sexual abuse; 4.2% psychological
  - 79.9% perpetrators were parents; 74.8% under 40; 56.5% women
  - 62.1% received services, both in-home and in foster care
  - 20.7% of victims placed in foster care
- 1,760 child deaths due to abuse or neglect (Kansas: 10)

## Children in Care in U.S.

- Approximately 500,000 children in foster care
  - 51% of children in care 12 months or more
  - 73% of children in care more than 4 years had 3 or more placements
  - 24,000 foster youth "age out"
  - Up to 10% of finalized adoptions dissolve
  - Greater risk - school failure, homelessness, teen pregnancy, unemployment, incarceration
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## Children in Foster Care in U.S.



Source: US Department of Health and Human Services, Administration for Children, Youth and Families, Children's Bureau, 2008

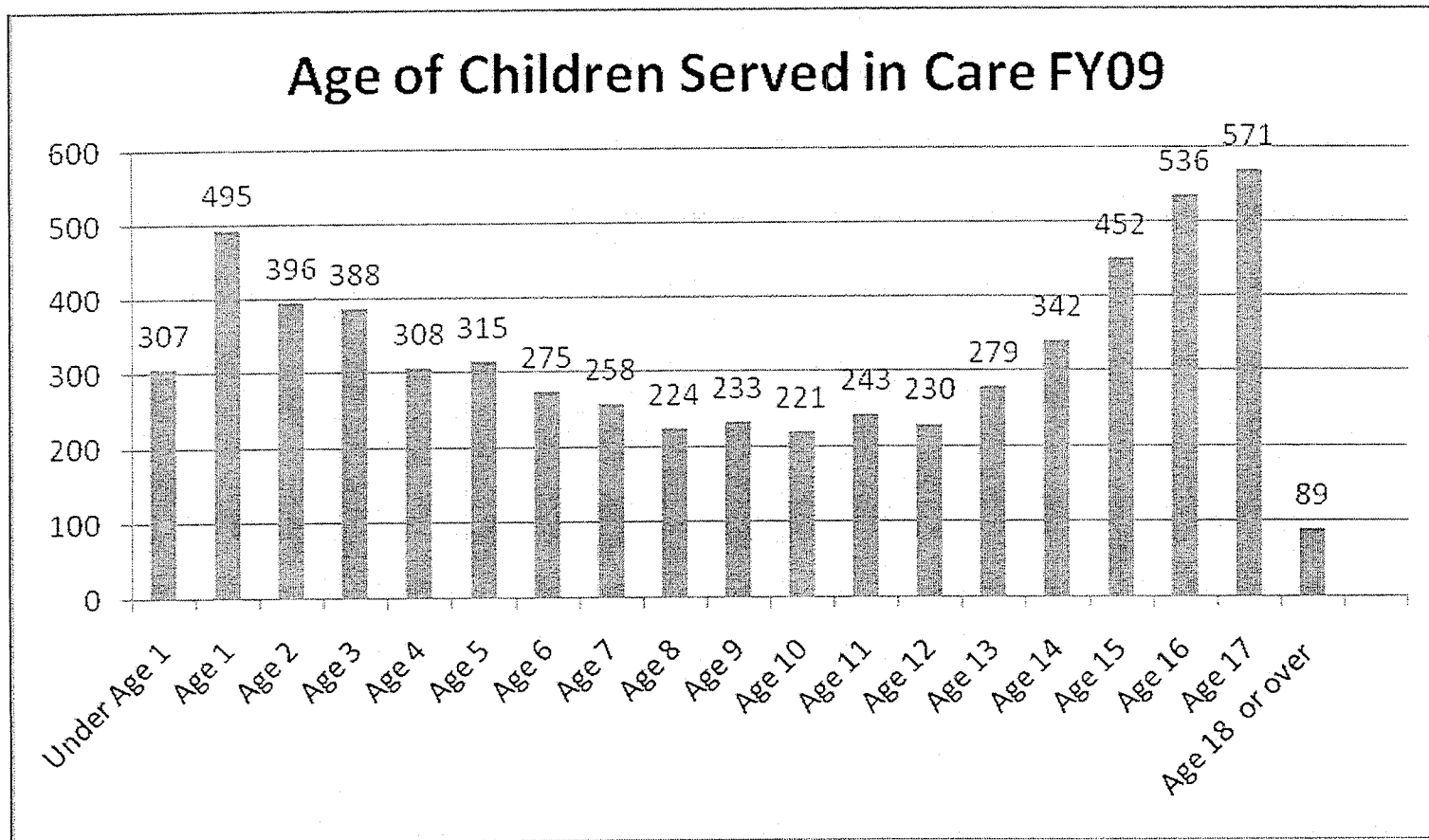


## Children in Care: Kansas

<b>General Information:</b>	<b>Kansas</b>	<b>Nationwide</b>
# of Children under 18	696,082	73,901,733
% of Children under 18	25.10%	24.50%
# of Children in Poverty	77,961	9,607,225
% of Children in Poverty	11.20%	13.00%
Removal Rate per 1000	4.5 (SFY09)	4.1
Average mos. in out of home placement	18.8	20.9
% of Children in a family like setting	91.9%	82.1%
% of Children placed with relatives	25.32%	25.7% (FFY06)

Source: Child Welfare Portrait, SFY 2009 July 1, 2008 – June 30, 2009 Kansas DSRS

# Children in Care: Kansas



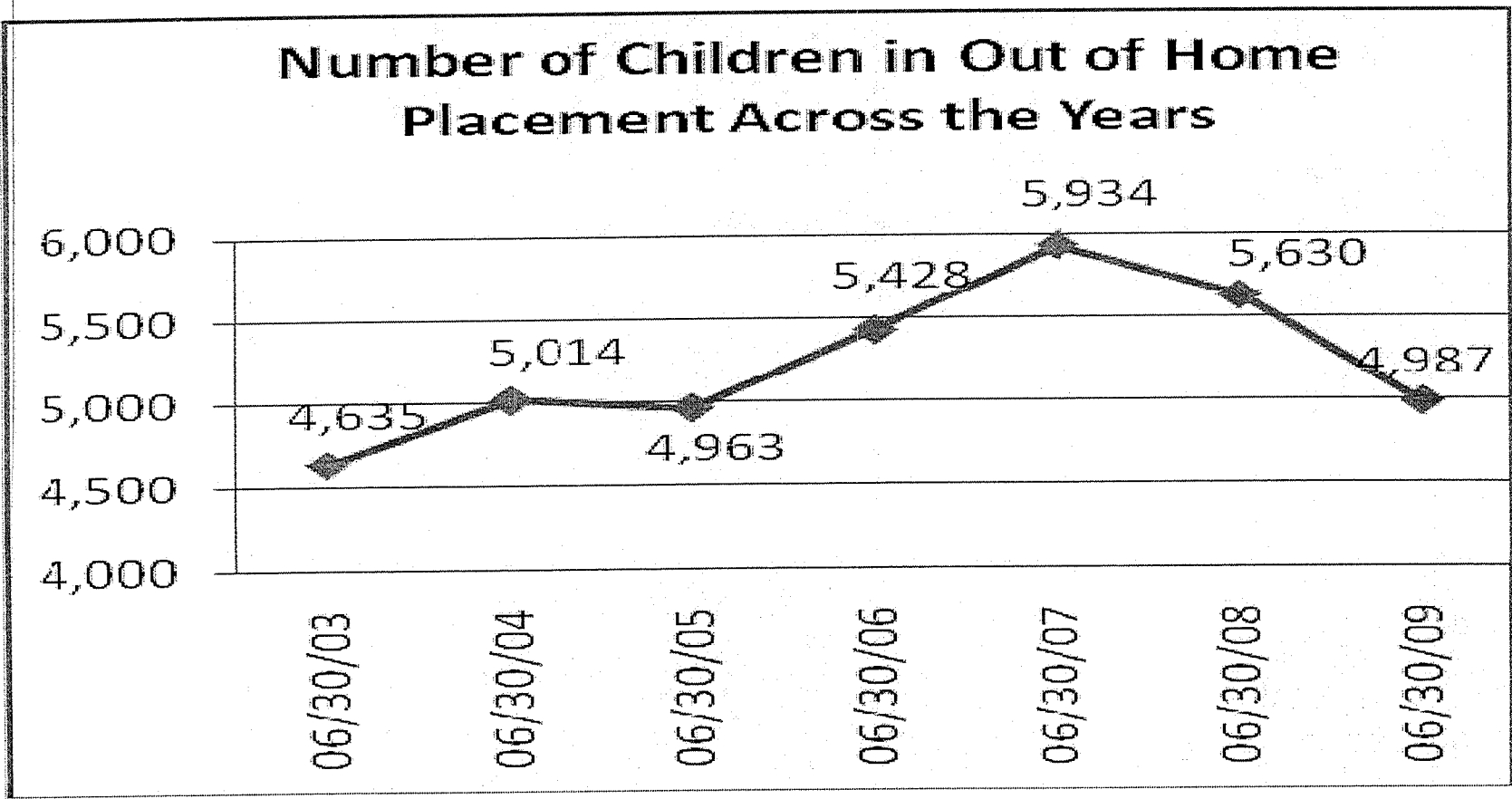
Source: Foster Care Census: September 30, 2008, Kansas DSRS

## Children in Care: Kansas

- Children in Out of Home Care, September 30, 2008: 5,460
  - 59% Non relative family foster home
  - 25% Relative placement
  - 5% Pre adoptive foster or relative home
  - 8% Group or residential
  - 2% Independent living
  - 1% Runaway
  - 53% Removed for other than maltreatment – unique to Kansas

(Source: Foster Care Census, SRS)

# Children in Care: Kansas

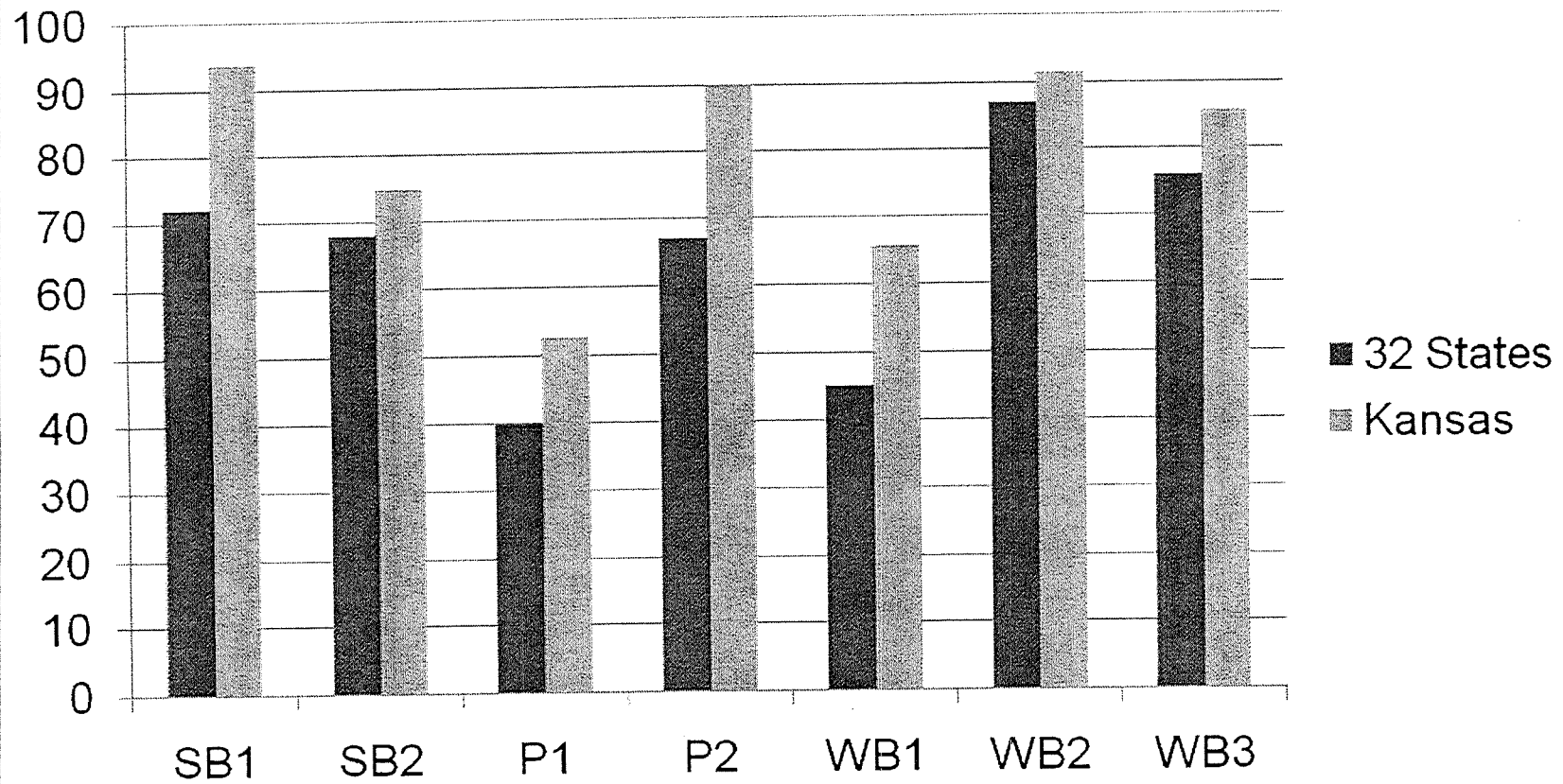


Source: Child Welfare Portrait, SFY 2009 July 1, 2008 – June 30, 2009 Kansas DSRS

# Child and Family Services Reviews: CFSRs

- Congressionally authorized
- First round conducted 2000 – 2004
- Second round runs from 2007 – 2010
- Review of state performance in three domains of child welfare:
  - Safety (2 outcomes)
  - Permanency (2 outcomes)
  - Child and Family Well-Being (3 outcomes)
- Review of 7 state systems, e.g., case review, QA, service array, info system
- Program Improvement Plans (PIPs)
  - Required if state not in conformity; potential penalties

## CFSR Preliminary Outcomes 2007- 2008



2-12  


Child and Family Services Reviews Outcome Preliminary 2007 - 2008	Avg Percent of Cases Achieving Substantial Conformity Across 32 States	Kansas
Safety Outcome 1 (Children are, first and foremost, protected from abuse and neglect)	72 percent	93.8 percent
Safety Outcome 2 (Children are safely maintained in their homes when possible and appropriate)	68 percent	75 percent
Permanency Outcome 1 (Children have permanency and stability in their living situations)	40 percent*	52.5 percent
Permanency Outcome 2 (The continuity of family relationships and connections is preserved for children)	67 percent*	90 percent
Well-Being Outcome 1 (Families have enhanced capacity to provide for their children's needs)	45 percent*	65.6 percent
Well-Being Outcome 2 (Children receive appropriate services to meet their educational needs)	87 percent	91.5 percent
Well-Being Outcome 3 (Children receive adequate services meet their physical and mental health needs)	76 percent	85.5 percent

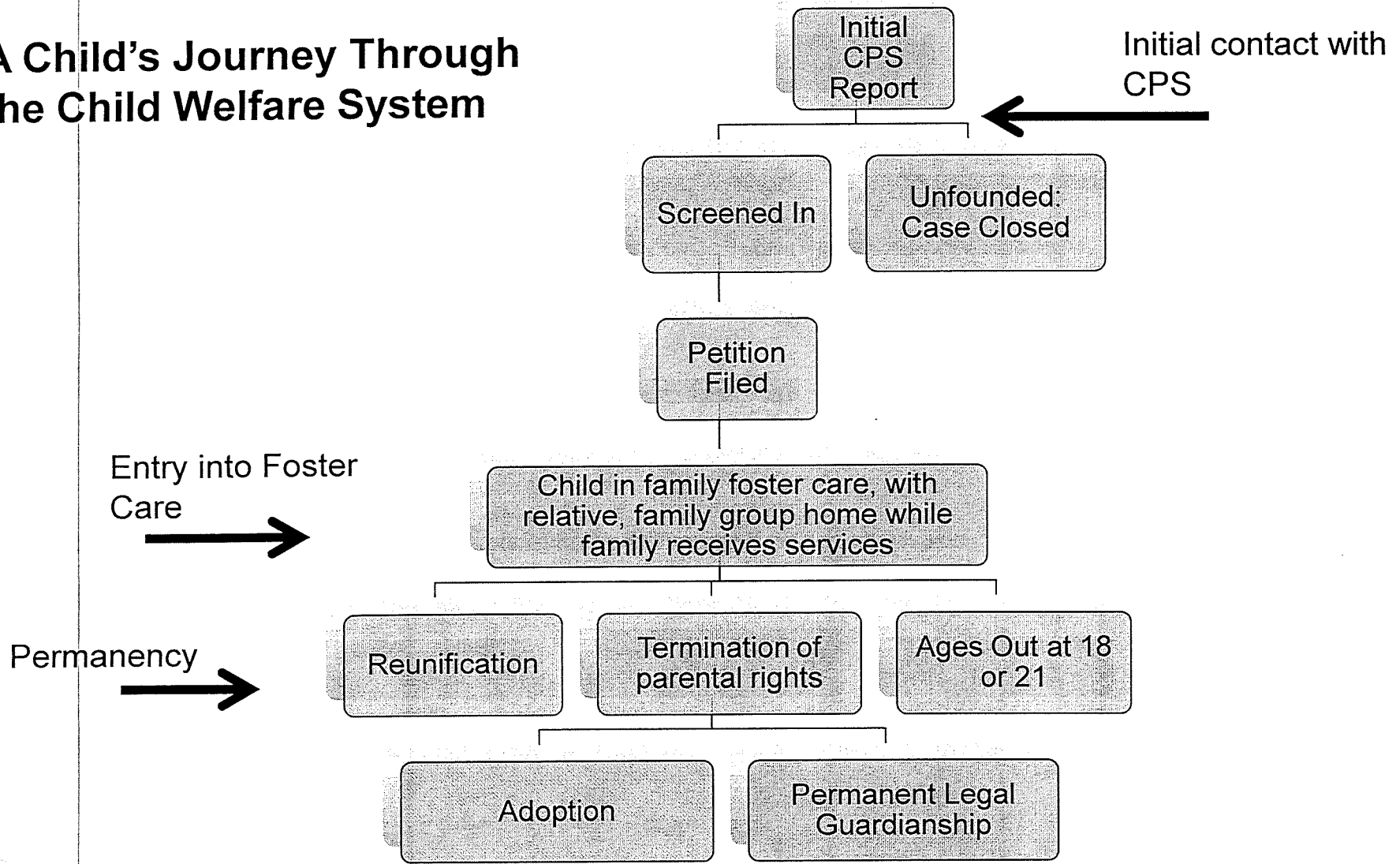
## Part 2: State Policy Options, Trends, Best Practice

### – A Child's Journey through the Child Welfare System Major Decision-Making Points

- Initial contact with child protective services
  - Entry into foster care
  - Permanency
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# A Child's Journey Through the Child Welfare System



## Decision Point: Initial Contact with CPS

- **Prevent entry into child welfare system through support of prevention programs, family support**
- **Clearer definitions of child abuse, child neglect, safety risk and safety threat (OK)**
- **Family team decision-making (12 states with legislation)**
- **Voluntary placement with relatives (Kansas and other states)**
- **Expedited court hearings** for children who have not been removed from home but may be removed absent provision of services under the court's protective supervision
- **Differential response (27 states)**
- **Prohibit the child welfare agency from requiring custody relinquishment** in order for parents to obtain mental/behavioral health services for children (CO, CT, ID, IN, IA, ME, MA, MN, ND, OR, RI, VT and WI)

## Decision Point: Entry into Foster Care, Permanency

- **Focus on permanency goals**
  - Concurrent planning mandated in FL, ID, MT
  - Prohibit long term foster care – ME
  - Parent child visits – AK, NM, WA
  - Caseworker visits
    - Federal requirement – CFSIA 90% of children in care visited monthly by 10/1/11
    - AR, MO, UT
  - Services to parents AZ, WA, OR, WA
  - Allow TPR reversal – CA, WA
  - Permanency roundtables
- **Strengthen kinship care and guardianship**
  - Expand definition – WI, WA
  - Conduct family search – AK, CT, FL, IL, VA
  - Federal Fostering Connections to Success
    - Requires relative notification
    - Provides option for subsidized guardianship – Title IV-E funds

## Decision Point: Entry into Foster Care, Permanency

### Preventing Children from Returning to Foster Care

- **Services and supports to families**
  - D.C. authorized grants to community groups for services to families
  - IL specialized services
- **Extend adoption/guardianship subsidies beyond age 18**
  - New Mexico
  - OK
  - Kansas
- **Maintain family connections after adoption**
  - NH, MD, NY post-adoption contact
- **Federal Fostering Connections Act of 2008**
  - States can continue subsidies for children who leave f/c after 16 (but before 21) for adoption, kinship guardianship – school, employment, activity (Kansas)

## Decision Point: Permanency

### ▪ Older youth

- Kansas has tuition waiver for state regents institutions ( 184 young adults entered 4 year colleges in FY08 on waiver)
- Kansas - Strong Chafee programs; extended medical coverage to age 21
- Extending foster care to youth beyond 18 through Fostering Connections
- Independent Living
- Youth participation in hearings

### ▪ Strengthen adoption

- Fostering Connections Act
- Adoption subsidies
- Maintaining connections
- Extending adoption, guardianship subsidies beyond 18
- Child-specific and targeted adoptive family recruitment
- Pre-placement services for children in foster care and their prospective adoptive families
- Post-placement services

## Decision Point: All Stages of the Process

### Strengthening the child welfare agency

- **Privatization and Performance Based Contracting:**
  - Emphasizes results related to output, quality and outcomes rather than to how the work is performed
  - Has an outcome orientation and clearly defined objectives and timeframes;
  - Uses measurable performance standards and quality assurance plans; and
  - Provides performance incentives and ties payment to outcomes.
    - Kansas
    - Florida, Illinois, Maine, New Mexico, North Carolina, Oklahoma, Nebraska, Washington (2009)
  - National Quality Improvement Center on Child Welfare Privatization
- **Child Welfare Workforce**
- **Funding Child Welfare**
- **Interagency Task Forces/Commissions**

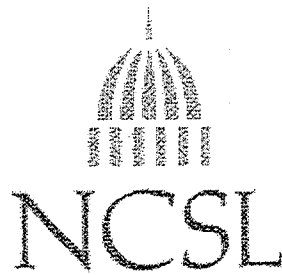
## Decision Point: All Stages of the Process (cont'd)

- **Reducing court delays**
  - DE, TN eliminated delays in TPR
  - WA required dependency review hearings w/in 30 days
- **Improve court performance**
  - CA courts track performance on key child welfare outcomes
  - LA, UT, MI measure permanency deadlines
  - LA judicial performance accountability program
  - MI annual report on permanency for children
  - UT yearly report on child welfare cases not in compliance w/statutory time limits
- **New court models**
  - AZ integrated family court pilot
  - NY “one family one judge” guidelines
  - Family drug treatment courts
    - CA, MI, NC, RI
- **Improving legal representation for children**
  - CA, LA, NH, NY, OH, OK
- **Youth participation in hearings**
  - CA, NY, OR, HI

# Contact Us:

- Child Welfare Project: Nina Williams-Mbengue at 303-856-1559 or [nina.mbengue@ncsl.org](mailto:nina.mbengue@ncsl.org)
- Website: <http://www.ncsl.org/Default.aspx?tabid=123>





NATIONAL CONFERENCE  
of STATE LEGISLATURES

# Fostering Connections To Success and Increasing Adoptions Act of 2008

March 2, 2010

Sheri Steisel, Federal Affairs Counsel,  
Senior Director, Human Services

House Fed & State Affairs

Date: 3-2-2010

Attachment 3

# Background

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- Long sought by the states
- Bi-partisan, Bi-cameral, by U.C. *narrowly*
- October 7th, 2008 signed by President *passed*
- Became Public Law No: 110-351

# Background cont.

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- Compromise between the House-passed Fostering Connections to Success Act (H.R. 6307 Rep. Jim McDermott-WA) and the Chairman's Mark of S. 3038, the Improved Adoption Incentives and Relative Guardianship Support Act (Senators Baucus and Grassley)
- Fully offset

# Key Features

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- New state options for subsidized guardianship payments for relatives
- Incentives for adoption
- De-linking adoption assistance
- Kinship Navigator
- New Family Connections grants
- New Federal support and state options for youth to age 21
- New Tribal foster care/adoption access

# New Requirements

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- Relative notification
- Educational Stability
- Health oversight and coordination
- Sibling placement
- Informing foster parents about tax credits

# Kinship Guardianship Assistance Payments for Children

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36

- States have the option to provide kinship guardianship assistance payments
- States will be able to use federal Title IV-E funds for this purpose
- A kinship guardianship assistance payment cannot exceed the foster care maintenance payment that a child would have received

# Kinship Guardianship Assistance Payments for Children Cont.

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- The child is eligible for this payment if:
  - The child has been removed from his or her home voluntarily or as a result of a judicial determination,
  - The child is eligible for foster care maintenance payments while living for six consecutive months in the home of the relative guardian,
  - Being returned home or adopted are not appropriate permanency options for the child,
  - The child demonstrates strong attachment to the relative guardian and the relative guardian has a strong commitment to caring permanently for the child, and
  - If the child is over 14 years of age the child must be consulted regarding the placement.

# Kinship Guardianship Assistance Payments for Children Cont.

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- Eligible for Medicaid
- The state must provide procedures for criminal records checks on any relative guardian
- Any sibling may be placed in the same kinship guardianship arrangement
- The kinship guardian may also receive payments on behalf of the sibling



# Notification of Relatives

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- Within 30 days after a child has been removed from parental custody, the state must provide notice to all adult relatives of the child
  - Except in cases of domestic violence

## The notification must:

- Specify that the child has been removed from the custody of the parent,
- Explain the options the relative has under federal, state, and local law to participate in the care and placement of the child,
- Explain the options that may be lost by failing to respond to the notice,
- Describe the requirements to become a foster family home,
- Describe the services and supports that are available for children in a foster home, and
- Describe how the relative guardians of the child may receive kinship guardianship assistance payments, if the state has elected to offer such payments.

# December 24<sup>th</sup> Program Instruction- Revised

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3-10

- Administration reverses problematic program instruction.
  - GAP payments would have applied to a child who enters into a new kinship guardianship assistance agreement and who exits from foster care.
- States would not have received reimbursement for existing cases finalized prior to Fostering Connections.
- Obama administration changed policy at request of NCSL/NGA/NACo/APHSA

# Family Connection Grants

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These grants establish:

1. A Kinship Navigator Program
2. Intensive family-finding efforts
3. Family group decision-making meetings for children in the child welfare

A kinship navigator program must:

- Be coordinated with state or local agencies and planned and operated in consultation with kinship caregivers
- Establish toll-free information and referral systems that link kinship caregivers to eligibility and enrollment information, relevant training, relevant legal assistance, and each other,
- Provides outreach to kinship care families including a website, guides or materials
- Promotes partnerships between public and private agencies
- May establish a kinship care ombudsman with authority to intervene and help kinship caregivers access services, and
- May support any other activities designed to assist kinship caregivers in obtaining benefits and services.

# Family Connection Grants Cont.

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3-12

- To receive a matching grant, an application must be submitted to the Secretary of HHS.
- The grant payment each year is a percentage of the total expenditures proposed in the application. If the application is approved, the grantee shall receive:
  - 75% of the total expenditures for the 1st or 2nd year of the grant period
  - 50% of the total expenditures for the 3rd year of the grant period

# Licensing Standards for Relatives

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3-13

- State option to waive licensing standards on a case-by-case basis for relative foster family homes
- The waiver can be allowed for specific children in foster care for non-safety standards as determined by the state
- New training money available

# State Option for Foster Children After Age 18

3-14

- The state has the option to extend foster care assistance to any child up to age 21 if the child is:
  - completing secondary education or equivalent credential,
  - enrolled in an institution which provides post-secondary or vocational education,
  - participating in a program to promote or remove barriers to employment,
    - employed for at least 80 hours per month, or
    - incapable of doing these activities due to a medical condition.

# State Option for Foster Children After Age 18 cont.

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- Adoption assistance and guardianship payments can be continued to age 19, 20, or 21
- Changes go into effect October 1<sup>st</sup> 2010
- States do not have to use same age cut off in the three cases (adoption, guardianship, and foster care), each can be addressed individually and have different ages

# Adoption Incentives Program

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- The Adoption Incentives Program is extended through 2013
- FY 2007 becomes the new baseline for determining incentive payments and base numbers of adoptions
- Incentive payments as put in place in the law for special needs adoptions and older child adoptions are increased
  - A state now receives \$4,000 per adoption that exceeds the highest number of adoptions plus \$4,000 per special needs non-older child adoption, or \$8,000 per older child adoption
  - States have 24 months to spend the adoption incentives funds (instead of two years).
- The state may receive additional payment if the state's adoption rate exceeds the highest ever previously recorded rate for a year (beginning in 2002)
  - The award would be \$1,000 times the number of adoptions that occurred as a result of the state exceeding its highest ever foster child adoption rate



# Adoption Incentives Program cont.

3-17

- The changes are phased in over 9 years
- Applicable Children must be in care for 60 consecutive months
- A child is also eligible if he or she is a member of a sibling group in which one of the siblings meets the requirements

## When Applicable Children Become Eligible:

- Age 16 or older in 2010
- Age 14 or older in 2011
- Age 12 or older in 2012
- Any applicable child 2014

Note – FY 09 Omnibus appropriations as adopted in House is in error and did not include the increased payments. Expect a technical corrections bill to fix it.

# Adoption Incentives Program cont.

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Other changes to adoption assistance eligibility include:

- Any child who is eligible for SSI will be deemed to be a child with special needs
- Children in private child welfare agencies, public state and local agencies, and Indian tribal organizations, will be eligible
- If a guardian decides to adopt later, the child continues eligibility for adoption assistance as if placement and kinship guardianship assistance payments had never been made.

# Promotion of Adoption of Special Needs Children

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- The eligibility for adoption assistance is no longer linked with the income requirements of AFDC and SSI

An applicable child:

- Was in the care of a public or licensed child placement agency at the time of adoption proceedings,
- Meets all medical or disability requirements with respect to eligibility for supplemental security income benefits,
- Was residing in a foster family home or child care institution, and
- Has been determined by the state to be a child with “special needs.”

# Tribal Foster Care and Adoption

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3-20

- Assures that there is equitable access for foster care and adoption services for Indian children in tribal areas
- All tribes are allowed direct access to IVE funds

# Other Provisions

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- **Transition for Children Aging Out of Foster Care**
  - During the three month period immediate prior to the child aging-out a caseworker must provide the child with assistance and support in developing a transition plan.
- **Training to Child Welfare Agencies, Guardians, and Court Personnel**
  - Each state, which has a plan approved, is entitled to a payment of 55%, growing to 75% of expenditures training of foster parents. Relative guardians, court personnel and private child welfare agency staff are added to this provision as well.
- **Educational Stability**
  - Placement of a child must take into account current educational setting and proximity
- **Health Oversight and Coordination Plan**
  - The state will develop a plan for the oversight and coordination of health care services for foster care youth.
- **Sibling Placement**
  - The state must make a “reasonable effort” to place siblings in the same foster care

# Implementation and Transition Issues

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- Opportunity for new state/federal partnership
- Swift guidance needed
- Regulations where necessary should support state efforts and flexibility
  - e.g. moving state pilots to permanent programs
  - Definitions determined by states
- Ensure HHS regions are consistent
  - Keeping track of different implementation dates

# New Resources in the Economic Stimulus

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- Child Welfare FMAP increase
- FMAP – 6.2% increase (no increase based on employment rates)
- Cannot receive increase if Medicaid FMAP rules not followed
- No increase for administration
- FMAP applies to adoption, foster care, or relative caregiver maintenance programs
- Potential for extension

# Thanks for Listening

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Feel free to contact the Human Services Federal Affairs Staff with any questions:

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<http://www.ncsl.org/statefed/humserv/fedhumserv.htm>