



National Association of Public
Child Welfare Administrators

an affiliate of the American Public Human Services Association

How States are Implementing the Fostering Connections Act

Utah's At-risk Children

In the state fiscal year (SFY) 2008, the Division of Child and Family Services (DCFS) investigated 19,878 reports of child abuse and of those, 8,284 (42 percent) were supported. During that year, 4,401 children received out-of-home services; 1,757 children entered foster care and 1,758 children exited care. As of November 1, 2008, 2,661 children remained in out-of-home care.¹ This number included 279 waiting for a permanent family through adoption. The reasons children left care included the following: 717 for reunification, 231 were placed with relatives, 443 were adopted,² and 218 aged out.

Although adoptions have increased and entries decreased, the number of children in placement has remained approximately the same for the past few years. Length of stays have increased. Federal funding restrictions that limit supportive services to intact families create major barriers to reducing the number of children in placement. Children remain in care longer because parental capacity building support services needed to ensure safety and stability cannot be continued after a child is reunified. Substance abuse recovery treatment timeframes do not always fit with in the Adoption and Safe Families Act (ASFA) timeframes. In addition, Utah's placement population includes juveniles from the Delinquency Courts. These children's behaviors range from truancy to a wide range of conduct that would fall under the criminal statutes if the child were an adult. Utah advocates for the flexibility to provide to children in their own homes the same package of services to which they become entitled upon entering placement.

Utah's Budget Landscape

Like the rest of the nation, the economic climate is impacting Utah. The state has experienced significant cuts to Fiscal Years 2009, and 2010 budgets. The highest projected budget gap of SFY 2009 is \$875 million or 15.6 percent of the general fund and for FY 2010 the highest projected gap is \$685 million or 13.5 percent of the general fund.³

In December 2008, Utah was released from a lawsuit filed by the National Center for Youth Law in 1993 over its child welfare practices. Utah's child welfare agency "is now recognized by child welfare experts as a national model."⁴ Committed to maintaining the core services developed and to sustaining the improvements made over the last few years, the state legislature avoided budget cuts in child welfare. However, the anticipated increase in funding needed for foster care and adoption services was not passed. As these are mandated services, the agency had to reduce other services to meet the obligations of these programs. This has included a variety of cuts that include reductions in program supports and services as well as personnel reductions. In home services, domestic violence services and flexible funding that were designed to provide emergency services to families to keep children from having to be taken into custody have been significantly impacted. Also impacted were the foster parent payment rates as well as rates paid to providers for group homes, residential treatment and other related services. Partly due to quick action on the part of the DCFS, layoffs were few. Most of the current vacancies were created by turnover and retirements. Reductions in staff have primarily taken place at the administration level. Ratio of 13 to 15 cases for each caseworker has not been impacted to date.

P.L. 110-351 State Options⁵

Utah would like to be able to implement all the options and is reviewing each to determine if and when it may become fiscally feasible to do so.

Guardianship Assistance Program (GAP) cannot be implemented at this time because the state does not have the required match funding. Utah currently operates a small guardianship program for non-relatives. This option for

permanency has been used primarily for situation where foster parents have had children for a year or more, adoption and reunification have been ruled out and foster parents are willing to make a commitment to care for the child until adulthood. There are compelling reasons not to terminate parental rights yet reunification is not an option. Often the children have indicated a preference not to be adopted. Funding for this program comes entirely from the state general fund and costs approximately \$500,000 per year.⁶ In addition, Utah's court system has utilized the option of placing children in the permanent custody of relatives rather than having the child remain in foster care when a relative is able to meet the needs of the child. In this situation, the family would be able to receive financial assistance and Medicaid through the Department of Workforce Services TANF program.

Supports to eligible young adults aged 19, 20, or 21 will be analyzed for implementation prior to it becomes effective in October 1, 2010. Currently, unless the court orders extended stay, youth leave care at age 18. The concern is that if this option was formally implemented the numbers of youth in care may increase and this would have fiscal implications for the overall budget, which would impact support dollars needed for other programs. While the new law would allow title IV-E funds to be used for eligible youth, state general funds would be required for youth who are not title IV-E eligible. As of November 1, 2008 there were 37 youth in custody ages 19 and 20. Chafee funds are available for youth at 14 and older who are in DCFS custody and also for youth that exited foster care after turning 18 years of age and have not yet reached age 21. The definition of how these funds are used is broad in scope, and is meant to assist youth in becoming successful adults. Chafee funds are individualized to cover unique needs and focus on short and long-term needs that will assist a youth to become a successful adult. Funds assist eligible youth in the following four areas: 1) Education, Training, Career Exploration; 2) Physical, Mental Health, and Emotional Support; 3) Transportation; and 4) Housing. These funds are designed to work in conjunction with the youth's Transition to Adult Living Plan.

The **support eligible youth who exit care to guardianship or adoption after age 16** option has the same budget issues as supports to eligible young adults aged 19, 20, or 21. These youth do qualify for Education Training Voucher (ETV) but currently, guardianship and adoption supports stop at age 18, except for youth who are disabled and IV-E eligible.

Utah Tribes

There are 6 federally recognized tribes residing, at least in part, in Utah. The Navajo Nation is the most likely tribe in Utah to have the capacity to operate its own IV-E programs in alignment with this legislation. Only a small part of the Navajo reservation is in Utah and this tribe currently has IV-E agreements with New Mexico and Arizona, but not Utah. The Navajo Nation and Utah have had preliminary discussions about entering into a IV-E agreement. The Ute Tribe has also discussed potential for title IV-E agreements with the State of Utah; however, the infrastructure to implement title IV-E requirements has not been in place. Utah operates six tribal cooperative agreements that are supportive of the tribes, but are not linked to title IV-E funding. Tribes have the option of assuming jurisdiction of children in need of placement or allowing the State to place. There are few tribal children in state custody. Upon taking an Indian child into protective custody the State notifies the child's tribe to determine if the child is enrolled or eligible for enrollment in the tribe. The Indian Child Welfare Act (ICWA) is followed to determine whether active efforts to prevent removal have occurred and to ensure placement preference is followed. The tribe can intervene at any time in a case involving ICWA.

P.L. 110-351 Mandatory Provisions

Utah has several leadership groups, including the Initiative on Utah's Children in Foster Care (I.O.U.) chaired by Chief Justice Christine Durham and composed of influential stakeholders representing judges, legislators, and religious institutions. This group has had ongoing interest in the areas of the mandatory provisions and has moved the issues forward in a manner that should benefit Utah's ability to implement these provisions.

Relative notification provisions align, for the most part, with the state's current statute and practice and policy. Relatives must be notified and considered for the purpose of preferred placement of children when out-of-home placement is required. Non-relatives known to the child or child's family who meet all foster parent licensing requirements are also considered for placement. Policy is being modified to incorporate specifications of the federal program instructions.

Educational stability provisions required state law changes to ensure compliance with the federal mandate. Utah received approval to delay implementation of the educational requirements that are mandatory provisions of the law.

The necessary legislative changes were made during the 2009 legislative session. These are now in the process of being implemented. The state is examining implementation on two fronts: logistically setting up transportation to the home school prior to placement and development of relationships with the school districts.

Health oversight and coordination currently in place and being implemented through Utah's Fostering Healthy Children program is in compliance with the federal legislation. A contract with the Department of Health enables immediate access to medical care to any child entering the placement system. Any urgent medical needs are provided immediately and protocol is for every child to have a physical exam within five days of placement. A complete physical is required within thirty days of placement. Every child in foster care has a nurse assigned from the Department of Health. These nurses work to enable continuity of care with the same providers if feasible, gather medical records, track health visits and ensures follow-up care is provided as needed and educate foster parents on the specific needs of the child. In addition, children aging out of care are educated on self-care and the use of Medicaid. There is no direct electronic connection between the Statewide Automated Child Welfare Information System and the Medicaid Management Information System, but the nurses can access the needed information from both.

Sibling connections are addressed in state policy that emphasizes the need to place siblings together. The federal law will reinforce the importance of this case practice.

Transition plans for children policy will be amended to meet all the federal specifications. Currently transition plans start at age 14 with an Ansell Casey Life Skills Assessment. At age 16 a transition to adult living section is incorporated into the case plan. The State believes that ninety days prior to discharge is too late for good planning. The federal requirement will be accommodated with a review of the plan within the mandated timeframe.

Family Connections Grants

Utah will support a private non-profit agency's application for a Kinship Navigator program. A Family Group Decision Making model is incorporated into Utah's case practice process and is done in all cases. Utah would like to be able to implement both intensive family finding and comprehensive family-based substance abuse treatment. However, at this time, Utah does not have the fiscal or staff capacity to operate either program as required by the Request for Proposal. Family finding is required of all caseworkers upon the placement of a child. There are a few small substance abuse treatment pilots, but the substance abuse treatment programs in Utah are coping with significant budget reductions. As partners, the child welfare and substance abuse agencies are working together to sustain operation of existing programs.

Opportunities & Challenges

The opportunities and challenges of this legislation are largely dependent on the Administration for Children and Families final rules and state budget conditions. Putting the state laws and policies in place to align with federal legislation were challenges that Utah readily met. Generating state match funding and staff capacity to implement is more difficult. Credible cost benefit data that supports investing funds to receive increased federal dollars in IV-E reimbursement must be presented to the legislature. Though Utah would like to implement all the options of this legislation, in reality programs have to be prioritized to meet the most pressing needs of children and families in the context of the state's environment.

Analysis of the potential fiscal impact of the legislation continues, but Utah anticipates an increase in transportation costs for sibling visitation and keeping children in their home school and costs for providing written notification to relatives.

Conclusion

As discussed in the preceding Utah Children at Risk, Utah advocates for flexibility to use federal funding to provide children in their own homes services improving the capacity of families to provide safely and permanently for their own children. Permanency would be with the child's family of origin by preventing entry into care whenever possible and reducing lengths of stay when out of home placements is necessary. Utah would welcome technical assistance around safely reducing the number of children in foster care.

¹ Utah Department of Human Services Child and Family Services Annual Report 2008. Retrieved May 18, 2009 from <http://www.dhfs.utah.gov/documents/dhfs-annual-report.pdf>.

² Utah Department of Human Services Child and Family Services Annual Report 2008. Retrieved May 18, 2009 from <http://www.dcfh.utah.gov/documents/dcfh-annual-report.pdf>.

³ Nation Conference of State Legislature. *Update on Budget gaps: FY 2009 & FY2010*. Retrieved April 6, 2009 from <http://www.ncsl.org/programs/fiscal/StateBudgetUpdate0109.htm>.

⁴ National Center for Youth Law sued the state of Utah in 1993 over its child welfare practices. Utah 's child welfare agency "is now recognized by child welfare experts as a national model". National Center for Youth Law. *Utah foster Care Lawsuit Ends; Child Welfare System Cited as National Model*. Retrieved May 18, 2009 from

http://www.youthlaw.org/press_room/press_releases/2007_press_releases/utah_foster_care_lawsuit_ends_child_welfare_system_cited_as_national_model/

⁵ Conference call with Cosette Mills, Revenue Manager, Division of Child and Family Services, Department of Human Services on May 18, 2009.

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