

# Child-welfare Reform and the Role of Privatization

BY LISA SNELL

## Executive Summary

**D**espite passage of the federal Adoption and Safe Families Act of 1997, which was designed to give states incentives to expedite adoptions, more flexibility to conduct child-welfare demonstration projects, and ensure safety for children, the child-welfare statistical picture looks worse than it did before 1997.

- In 1996, approximately 520,000 children were in foster care; by March 1999, 547,000 children were in foster care.
- In 1996, 11 percent had been in foster care for three to four years, and 10 percent had been there for five years or longer. By March 1999, 15 percent had been in foster care three to four years and 18 percent had been in foster care for 5 years or longer.
- In 1996, approximately 54,000 children were legally available for adoption; by March 1999, 117,000 children were legally available for adoption.

More children continue to languish in foster care despite an overall decrease in child-abuse victims. In 1998, based on data reported by the states, the U.S. Department of Health and Human Services estimated that child protective service agencies received about 2,806,000 referrals of possible child abuse or neglect. Of the 66 percent of those referrals investigated, states found that an estimated 903,000 children were victims of abuse and/or neglect. In a trend that began five years ago, the number of children abused and neglected has decreased approximately 11 percent from a record 1,018,692 in 1993. The incidence of children victimized by maltreatment also declined to 12.9 per 1,000 children, the lowest record in more than 10 years.

Child-welfare policy, writes RPPI adjunct scholar Susan Orr, is set by a pendulum that swings from crisis to crisis. In *Child Protection at the Crossroads*, Orr writes, "A child death translates into a policy of removing children too easily from their homes and keeping them in foster care too long. An overzealous removal rate

then triggers the opposite reaction, dictating that too many children stay in dangerous settings as the agency tries to be more ‘family friendly.’”

In order to address both extremes of the pendulum—child deaths versus overzealous child removal—and stop the pendulum from swinging, states need to find ways to reduce the scope of their child-protection efforts, while prioritizing to devote more resources to serious cases of child abuse. Child-welfare privatization is proving a valuable tool for improving the child-protection system by reducing the number of children and families involved with the state and ensuring permanency and safety for those children who really need to be protected. It presents an opportunity to change the child-protection system to a competitive, outcome-oriented system that focuses on specific performance measures such as increasing adoptions, ensuring child safety, and reducing the time children spend in foster care. States can implement several reforms to improve their child-welfare systems and help ensure a successful child-welfare privatization program.

## **A. Privatize Adoption Services First**

Since adoption privatization has been the most successful and the least controversial component of child-welfare privatization, states should begin their child-welfare reform by privatizing the adoption process. Child-welfare agencies are often so busy investigating child-abuse, placing children in foster care, and providing services to families that there are not many resources left to announce the availability of children to prospective parents once they are freed for adoption. Private and nonprofit agencies can focus all of their attention on finding a child an adoptive family, especially when contracts are structured to reward the swift placement of children eligible for adoption.

## **B. Reduce the Foster-care Population**

Since privatization often is accompanied by increases in foster-care caseloads because government social workers have more time to investigate child-abuse reports, a successful child-welfare privatization program must focus on ways to reduce the foster-care population. Some good strategies include:

- Ranking hotline calls;
- Offering privatized voluntary services to low-risk cases;
- Narrowing child-abuse definitions;
- Implementing safety-focused family preservation programs; and
- Criminalizing all serious cases of abuse.

## **C. Offer One-stop Child Protection**

An ideal child-protection system would protect both the safety and rights of the child and the rights of the parent. While these two goals will always conflict with one another to some extent, a complete one-stop child protective service center would solve many of the inherent conflicts in the current child-protection system. Such a system would offer a child a safe environment and provide a child-protection team with experts in investigating child abuse as well as the necessary legal representation from the district attorney’s

office and the judicial system to ensure parents' due process. It would include child-welfare caseworkers, doctors and a medical team, state attorney representatives, a video team, a citizen's review board (including a doctor who would be present at medical exams to present a second opinion), and finally a judge, who would be available to issue court orders. All of these parties would be at the same place at the same time for quick and complete child-abuse investigations. Such a system would save time and money and eliminate the problem of communication gaps between child-welfare agencies, the police, and the judicial system.

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#### **D. Recognize that the Juvenile Court is the Gatekeeper of any Child-welfare System**

Reforming the juvenile court system is the one missing component in most child-protection reforms. Foster-care privatization that sets time limits to move children towards reunification or to sever ties with biological parents will be ineffective if judges and the juvenile court system do not cooperate to meet these goals. State and local governments considering privatization should examine how their juvenile court processes impact the child-welfare system to determine what legislative reforms are necessary to keep children safe while ensuring due process for families.

## Part 1

# Introduction

Despite passage of the federal Adoption and Safe Families Act of 1997, which was designed to give states incentives to expedite adoptions, more flexibility to conduct child-welfare demonstration projects, and ensure safety for children, the current child-welfare statistical picture looks worse than it did before 1997.<sup>1</sup>

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More children continue to languish in foster care despite an overall decrease in child-abuse victims. In 1998, based on data reported by the states, the U.S. Department of Health and Human Services estimated that child protective service agencies received about 2,806,000 referrals of possible child abuse or neglect.<sup>4</sup> Of the 66 percent of those referrals investigated, states found that an estimated 903,000 children were victims of abuse and/or neglect. In a trend that began five years ago, the number of children abused and neglected has decreased approximately 11 percent from a record 1,018,692 in 1993. The incidence of children victimized by maltreatment also declined to 12.9 per 1,000 children, the lowest record in more than 10 years.

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<sup>1</sup> Adoption and Safe Families Act of 1997, P.L. 105-89.

<sup>2</sup> U.S. Department of Health and Human Services, Children’s Bureau, *Child Maltreatment 1996: Reports from the States to the National Child Abuse and Neglect Data System* (Washington D.C.: U.S. Government Printing Office, 1998); U.S. Department of Health and Human Services, Adoption and Foster Care Analysis and Reporting System, Current Estimates as of January 2000, [www.acf.dhhs.gov](http://www.acf.dhhs.gov).

<sup>3</sup> This number has increased in part because the Adoption and Safe Families Act of 1997 required states to expedite the Termination of Parental Rights, which freed more children for adoption in a short timeframe.

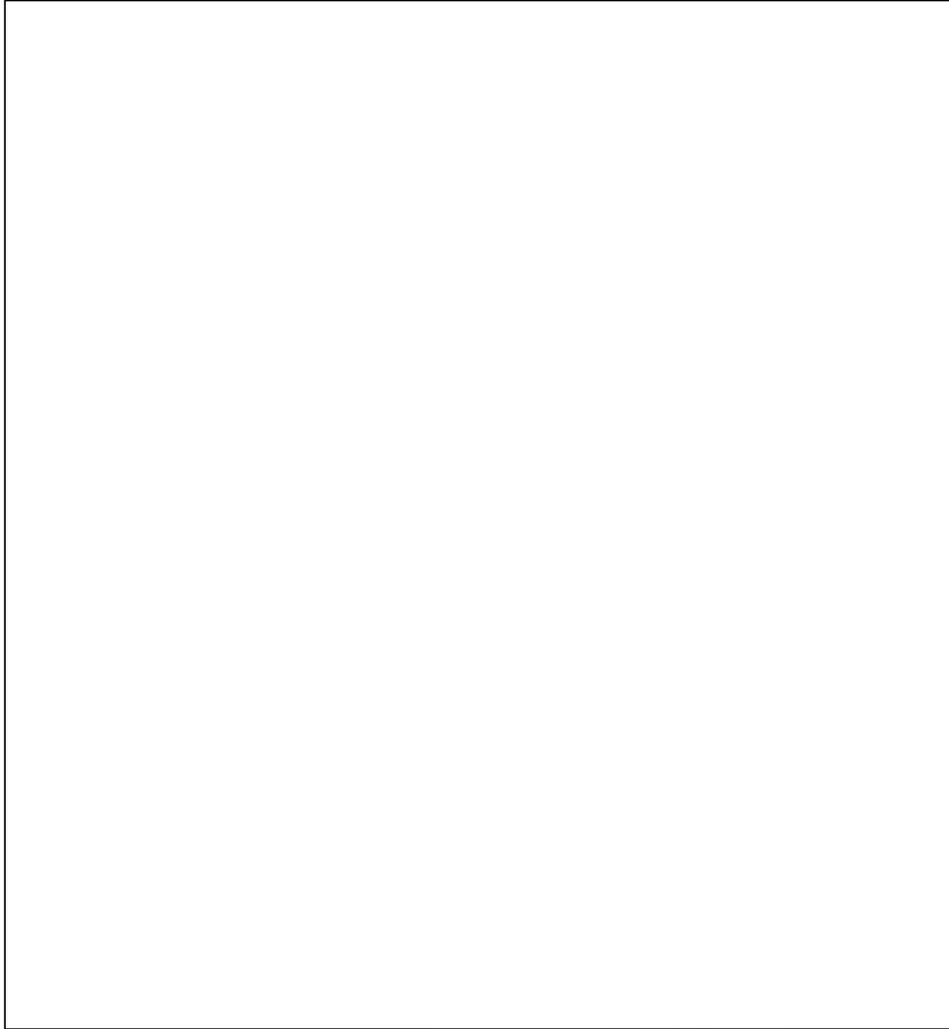
<sup>4</sup> “HHS Reports New Child Abuse and Neglect Statistics,” U.S. Department of Health and Human Services, press release, April 10, 2000.

<sup>5</sup> Susan Orr, *Child Protection at the Crossroads: Child Abuse, Child Protection, and Recommendations for Reform*, Policy Study No. 262 (Los Angeles: Reason Public Policy Institute, October 1999), p. 4.

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In Florida, for example, the legislature passed the 1999 Kayla McKean Child Protection Act, which was inspired by the death of Kayla. She died after repeated reports of abuse to the Florida Department of Children and Families failed to result in her removal from her parents' home. The Florida legislature is now considering revising the law since the foster-care population has increased by 400 percent in some counties since its passage. Florida faces a "foster care panic" in which state caseworkers—who can be prosecuted if they fail to remove a child who is later abused—frantically remove children from their homes. Here we see the pendulum swing from a child death to an overzealous removal rate in one year.



Two major problems plague child-welfare agencies across the nation. First, some children are dying because child-welfare systems are overburdened and cannot adequately investigate all child-abuse reports. Second, child-welfare agencies continue to intervene in the decisions of too many families without justification. A

child-welfare system that focuses on too many families means that some of the critical cases are missed, and some children die. The policy challenge is how to ensure that those who harm their children are held accountable for those actions while, at the same time, limiting interventions to those situations where clear evidence of abuse exists.

In addition to the swinging pendulum, child-protection systems across the nation face a myriad of other problems including, but not limited to, children staying in foster care too long, children being shuffled through several foster homes during a short period of time, foster-care family shortages, overcrowding in foster homes, abuse in foster homes, children available for adoption who remain in foster care too long, caseworker burnout, large caseloads, high turnover, poor investigations, incomplete paperwork, and lost files and data.

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In March 2000 alone, the headlines screamed with stories of both parents and children being abused by the child-welfare system in the United States.<sup>6</sup> From the state of Washington to Washington D.C., from Los Angeles to New York City, the year 2000 early on proved to be a banner year for headlines representing both extremes of the pendulum.

Child-welfare privatization presents an opportunity to address the pendulum problem and look at what structural reforms need to be made, as well as focus on functional problems like foster care, overcrowding, and large caseloads through child-welfare contracts designed with specific performance outcomes. Child-welfare privatization is proving a valuable tool for improving the child-protection system by reducing the number of children and families involved with the state and ensuring permanency and safety for those children who really need to be protected. There is much to learn from examining how privatization and performance incentives have functioned in the four service areas of foster care, family preservation, child-abuse investigations, and adoption as well as the structural barriers and challenges to child-welfare privatization.

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<sup>6</sup> See for example: Ruth Teichroeb, "Pioneering Lawsuit Says State Botched Foster Care," *Seattle-Post Intelligencer*, March 29, 2000, p. A1; Sari Howitz and Scott Higman, "Foster Care Caseload Just Horrible, Swamped Social Workers Fear a Repeat of Brianna Case," *The Washington Post*, March 27, 2000, p. A1; Somini Sengupta, "Bleak Assessment Offered on City's Child-welfare System," *The New York Times*, March 10, 2000, p. B3; "Foster Care: Studied to Death," *Los Angeles Times*, January 18, 2000, p. 6.

**Part 2**

# Foster Care

*A mother whose chronically ill son was taken away from her by Los Angeles County's Department of Child and Family Services, which alleged she was not meeting the child's medical needs, is suing Los Angeles County after her nine-year old son, Jonathon, died in a foster home six weeks later. The lawsuit contends that Jonathon was placed in a foster-care environment that was ill-equipped to handle his medical needs. The coroner's report cites the combined effects of asthma and a lethal dose of asthma medication given by his caretaker as the cause of death.<sup>7</sup>*

While this incident may be extreme, it is not isolated. Jonathan could become a poster child representing the abuse and neglect too often facing foster children in Los Angeles and the nation.

More than half a million children languish in government-run foster care. Originally intended as safe, temporary homes for children, the \$12 billion foster-care system is beset with problems including:

- **Lack of Permanency:** Children remain in foster care too long without being reunited with their parents or adopted into a permanent home.
- **Compromised Safety:** Children are sent back to abusive homes or placed with abusive foster parents or in overcrowded conditions that jeopardize safety.
- **High Number of Placements:** Children have several foster-care placements within short time periods, which compromises their stability and safety.
- **Heavy Caseloads:** Social workers are responsible for too many children to supervise all cases thoroughly.
- **Caseworker Turnover:** Foster children face many caseworker changes and often go through several social workers.

Foster-care privatization programs have shown that private social workers have a much better chance at meeting outcome goals focused on child safety and permanency than their state counterparts. Kansas and Florida are undergoing the most thorough efforts at privatizing state-run foster-care programs. These privatization programs have demonstrated that despite significant barriers, private contractors can move children through the foster-care system more quickly, ensure their safety, reduce the number of foster-care placements, and reduce the caseload for social workers.

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<sup>7</sup> Ann W. O'Neill, "A Boy's Fatal Journey in the System," *Los Angeles Times*, May 29, 1998, p. 1.

## A. Kansas Foster-care Privatization Program

Kansas's privatized foster-care program is now in its fourth year. After an initially chaotic transition period, the program is going much more smoothly. In March 1997, three private providers—Kansas Children's Service League, Kaw Valley Center, and United Methodist Youthville—began providing foster care for the entire state. The state paid the contractors a fixed amount for each child, which was expected to cover all services provided to the family during the child's time in foster care.

Kansas has completed the first foster-care contract cycle and in February 2000 was awarded new foster-care contracts. Two of the three original foster-care service providers in Kansas were told their state contracts in Kansas's largest service regions would not be renewed—although each original contractor retained one region.<sup>8</sup> Kansas Department of Social and Rehabilitation Services (SRS) officials offered foster-care contracts to The Farm and St. Francis Academy for one region each instead of Kaw Valley Center and United Methodist Youthville. SRS officials said that program quality was their primary concern in choosing the new providers, not cost. SRS Assistant Secretary for Children and Family Policy Joyce Allegrucci said the new contracts involve an increased use of family foster homes and kinship care. “Family foster care or placement with relatives is best for most children who are in state custody because of abuse or neglect,” Allegrucci said. “We are working with the contractors to find the best ways to keep children safe, move them quickly through the system, and, when possible, get them back home.”<sup>9</sup>

### Key Lessons Learned from Successful Foster-care Privatization

1. Develop reliable initial data on which firms can base their price.
2. Work out realistic estimates of start-up costs and timelines for achieving performance goals.
3. Develop contingencies for unanticipated surges in the foster-care population due to legislative or other outside factors.
4. Establish a mechanism for juvenile courts and child-welfare service providers to work together.

In the past, contractors experienced significant cost overruns due to court delays and increases in foster-care caseloads. The new contracts are being set on a per child per month rate-payment system, rather than the one-time case rate paid under the initial contracts.<sup>10</sup> The Kansas payment system was initially structured with a one-time fee to ensure that contractors had a financial incentive to move children out of foster-care quickly. Future performance evaluations will demonstrate whether a payment structure which pays contractors on a per-month rate system will represent a return to a perverse incentive structure that keeps children in foster care too long.

### 1. Barriers to Foster-care Privatization

<sup>8</sup> Dave Ranney, “Kansas Foster Care Contracts Pulled from Two Major Providers,” *Journal-World*, February 22, 2000, p. 4.

<sup>9</sup> “Contracts for Foster Care/Reintegration Awarded for Three Regions,” Kansas SRS, press release, February 21, 2000.

<sup>10</sup> Ibid.

Several factors caused initial problems and to a lesser extent continue to cause problems for foster-care privatization.

**Unreliable Data:** In Kansas a significant barrier to privatization was the lack of reliable data by which to evaluate the system before privatization to establish a baseline for the pricing of foster care.<sup>11</sup> The lack of pricing information was compounded when all of the old foster-care cases were transferred to the contractor without recognizing this population as a different population from “new referrals.” That was an error from both a financial and an outcome basis. The older cases were the most difficult and costly. In retrospect, the existing foster-care caseload should have been priced differently and outcome expectations for that population should have been different.

In addition to data on pricing information, private contractors also experienced problems with the children’s foster-care records. During the first nine months of operation, the state referred 5,207 cases to private providers, and 3,450 children were transferred in the first three months without having all of the records on transferable computer files. One of the subsequent benefits of privatization has been a move to make all cases accessible on a computer database. Private contractors initially underestimated the amount of data that had to be entered manually and how long this data-entry process would take. In fact, the transfer of records to a computer database is still not completely finished.

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**Increased Foster-care Population:** Another unanticipated difficulty was the unexpected and large increase in children entering foster care. State legislation passed concurrent with or after privatization broadened the definition of abuse that requires that children be removed from their homes. Also, privatization freed state social workers from managing foster-care placement and allowed them to focus on investigating child-abuse cases. In Wichita, for example, before privatization the 30 SRS workers handled all the cases with an effort to prioritize the most egregious. Since privatization, close to 50 SRS workers are investigating more complaints and confirming more abuse and neglect.<sup>12</sup> More confirmations mean more time in court. The resulting overcrowding in juvenile courts has further delayed the foster-care placement process. The courts in Sedgwick County, Kansas are so overcrowded that children put in foster care must wait three months before a judge looks at their cases at an adjudication hearing.<sup>13</sup>

The rise in new cases also overtaxed the new system because of a shortage of new foster homes to place the children. Many children had to be placed in more expensive group-home settings until new foster parents could be recruited. The Kansas privatization effort was also increasing adoptions (and most adoptions are with foster parents), which resulted in even fewer available foster homes.

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<sup>11</sup> “An Insider’s Look at the Kansas Child-Welfare Privatization: An Interview with Teresa Markowitz, Former Commissioner for Children and Families for the State of Kansas,” *Privatization Watch* (November 1999), p. 2.

<sup>12</sup> Dave Ranney, “Foster-Care Numbers Approach All-Time High,” *The Wichita Eagle*, June 29, 1999, p. 1A.

<sup>13</sup> *Ibid.*

**Judicial Constraints:** Private providers have no control over how many children enter the foster-care system or when they leave. As a 1999 U.S. General Accounting Office (GAO) study on juvenile court reform explained:

*Almost every day, courts that hear child welfare dependency cases across the nation make critical decisions that affect the lives of the approximately 1 million children who are victims of child abuse and neglect each year, many of whom enter and remain in the foster care system for years. In this capacity, the courts—executing a variety of federal and state laws—play the central role in determining whether children will be removed from their homes; how long they will remain in the foster care system; and, ultimately, where the children will permanently reside.*<sup>14</sup>

The GAO report also notes that serious systemic problems plague the juvenile-dependency court system. These problems include: “a lack of cooperation between the courts and child welfare agencies and difficult personnel and data management issues that jeopardize the courts' ability to ensure that a child's stay in the foster care system is as brief as possible and that the permanent placement decided upon is in the best overall interest of the child.”<sup>15</sup>

In addition, courts face numerous difficulties, including increased caseloads, short tenures for judges and attorneys assigned to juvenile dependency courts, insufficient training of judges and attorneys in child-welfare law and concepts, and information systems that do not adequately track the progress of individual cases or monitor the courts' compliance with statutory time frames for achieving permanent placements.<sup>16</sup>

Since judges have sole authority in deciding when a child enters and leaves foster care, a contractor cannot adequately predict the costs of foster care for each child. If a contractor is paid a flat fee per child that assumes the child will leave the foster-care system within a set period of time, but the court prevents the child from leaving the system within that timeframe, the contractor loses money. In Kansas, the SRS worker still investigates reports of abuse and neglect and turns over substantiated cases to the district attorney's office. The district attorney decides whether a case goes to court, and then a judge decides whether a child belongs in foster care. The Kansas privatization experience has shown that the contractor has little control over when a child can return to his or her parents or be freed for adoption. In Kansas, if the court does not release the child from foster care in a timely manner, the contractor is still obligated to pay for the child's foster care.

While the courts serve as a needed check and balance for the child-welfare system most of the time, the issue is making sure the courts have confidence in the efforts being made to release the child to the parents or to terminate parental rights. Better coordination and communication is needed between the courts and the child-welfare system to ensure that the courts have enough information to make timely, yet safe and accurate, decisions about children in the foster-care system.

#### Arizona Model Court

<sup>14</sup> Mark V. Nadel, *Juvenile Courts: Reforms Aim to Better Serve Maltreated Children*, HEHS-99-13 (Washington D.C.: General Accounting Office, January 11, 1999), p. 9.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

A program that began in Pima County and is now in place statewide has overhauled the way that abuse and neglect cases are handled by the Arizona state juvenile courts.<sup>17</sup> Cases are spending less time in court, and children are placed more quickly into permanent, stable homes. Before the model court project, “it would take at least six weeks for the first meaningful hearing to take place after CPS filed a dependency petition with the court,” said Nanette Warner, former lead judge in Pima County Juvenile Court. The final (custody) decision wouldn’t happen for another four months. In the meantime the child would be placed with a relative or in a temporary group home, where the law stated they couldn’t stay for more than 30 days.<sup>18</sup>

The Arizona court reform began when Congress passed the Adoption and Safe Families Act in 1997. The act emphasized preserving and reunifying families prior to placing a child in foster care, and, if possible, returning the child to the home. In the same year, the Arizona legislature passed a bill incorporating much of the federal act into state law and recodifying the state’s child-welfare statutes. The juvenile court in Pima County then introduced Model Court, a pilot program in which the most critical aspect was a mandatory prehearing conference within one week after a child’s removal from the home. “Everyone with an interest in the child is invited to the conference—parents, relatives, extended family members,” Warner said. “We discuss the best interests of the child and try to resolve some issues before going to court (for the initial hearing).”<sup>19</sup>

Model Court saves money in the long run because it moves children more quickly through the system. But it requires an early investment in the process. Compressing the hearing timeline also means a heavier burden for CPS caseworkers. A 1998 report issued by the state’s Foster Care Review Board concluded that to get a Model Court case to the initial hearing, caseworkers had to perform 50 percent more work in one-half to one-sixth of the time.<sup>20</sup>

The results could not be denied. According to the Foster Care Review Board, the average Model Court case had an initial hearing within seven days and was adjudicated in 43 days, about half the time required under the existing system.<sup>21</sup> The success of Model Court led to more legislative reform in 1998. The program, now known as Family Protection Court, was implemented throughout Arizona at the beginning of 1999.

**Cost Overruns:** The long delays for foster-care children resulting from the overtaxed court system and the more expensive foster-care placements led to significant cost overruns for foster-care contractors. Most contractors calculated that they could move the majority of children through the system within approximately six months. Based on this calculation, United Methodist Youthville, for example, estimated a one-time fee of \$15,443, for each child in foster care. If a child stays longer than six months, Youthville loses money.<sup>22</sup>

In the first year of foster-care privatization, the state’s primary contractors—United Methodist Youthville, Kansas Children’s Service League, and Kaw Valley center—spent \$25 million more than they received from SRS. In August 1998, SRS gave the contractors an additional \$24.7 million to cover the shortfalls.<sup>23</sup>

<sup>17</sup> Mike Fimia, “Juvenile Court Hikes Its Pace,” *Arizona Business Gazette*, March 11, 1999, p. 1.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Dave Ranney, “The Foster Care Question: Is it Safe to Go Home?” *The Wichita Eagle*, January 10, 1999, p. 1A.

<sup>23</sup> Ibid.

Similarly, in 1999 the Kansas legislature diverted approximately \$51 million from federal welfare-to-work grant money to bail out the private foster-care system.<sup>24</sup> The cost overruns were not just about the cost of care; a high percentage of the cost overruns were also due to “startup costs” that were not accounted for in the per-child rate.

**Too Many Foster Children:** Meanwhile, state welfare officials have discovered that a significant number of children placed in foster care are not abuse or neglect cases. SRS completed an analysis of foster-care caseloads in Kansas during fiscal year 1999. One in every five children in foster care—up to 1,800 children—were placed there for reasons other than abuse or neglect.<sup>25</sup> “Because other options were not available thousands of Kansas children have been taken from their homes and communities and inappropriately placed in state custody and foster care over the years.”<sup>26</sup>

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## 2. Addressing Problems

SRS officials have proposed an overhaul of child-welfare laws that would reduce the number of children placed in foster care. The proposal focuses on getting services to children who may have a variety of problems but are not being abused at home. These problems may include substance abuse, truancy, emotional problems, or mental illness. Joyce Allegrucci, SRS Assistance Secretary for Children and Family Policy, said under the current code, judges in Kansas are given few alternatives to state custody. “We have failed our courts because we offered them either inadequate alternatives or no alternatives to bringing children into state custody,” she said. “When we give judges only a choice of two systems—one to remove children who have been abused or neglected and one designed to lock up violent adolescents to protect public safety—we have been unable to effectively serve an entire group of Kansas children who will not get better in foster care or in detention.”<sup>27</sup>

The proposed amendments to the Kansas Code for Care of Children would create two subcategories of Children in Need of Care (CINC): children in need of protection and youth in need of community services.<sup>28</sup> Children in need of protection are those children who cannot safely remain in their family home because of physical and/or sexual abuse or neglect. Youth in need of community services are those who are safe at home but need services for themselves and their families because of truancy, severe emotional disturbances, being outside parental control, or other issues not related to abuse and neglect.

According to SRS officials, the changes to the foster-care law should accomplish the following:

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<sup>24</sup> Lori Lessner, “Kansas Diverts Welfare Funding,” *The Wichita Eagle*, March 2, 2000, p. 1A.

<sup>25</sup> “Legislation Seeks Remedy for Children and Families Caught in a Foster Care System not Designed to Serve Them; Service Collaboration is Key,” Kansas SRS press release, March 3, 2000.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Kansas Senate Bill 633, “An Act Concerning Children in Need of Care,” Legislative Session 2000.

- Enhance safety and permanence of homes for children;
- Ensure children are served where services can be most effective;
- Only remove children from their homes when it is necessary to protect them;
- Ensure actions of the child-protection system occur in a timely fashion;
- Reduce duplicative or unnecessary burdens on the child-protection system and on both biological and foster parents and children; and
- Keep the state eligible for federal funding to serve these children in order to use limited state funding to its maximum effect.

Federal rules require SRS, the Juvenile Justice Authority, county and district attorneys, and Kansas courts to make reasonable efforts to keep a child at home before resorting to removal. An audit of the state's compliance was to occur place between July and September 2000. If the state fails the audit, it could mean the loss of millions of dollars in federal child-welfare financial assistance.

Compliance with federal regulations is incorporated into proposed changes to the Adoption and Safe Families Act (ASFA). Prior to placing a child in the custody of the Secretary of Social and Rehabilitation Services or the Commissioner of Juvenile Justice, the bill would require the courts to make specific findings that reasonable efforts have been undertaken to return the child home.

The fiscal impact of implementing the provisions for children in need of community services is already included in governor's FY 2001 Budget Report. In these recommendations, an estimated 1,000 children would be diverted from foster care and served in the community. In the event this provision does not pass, the foster-care contracts would have to be adjusted for the extra population in foster care, at a cost of \$10.3 million, of which \$6 million would be from the state's general fund.<sup>29</sup>

To Allegrucci, though, the damage being done to children is what must be stopped. "This legislation comes from the realization that damage does occur to children when they are removed from their home," she said.<sup>30</sup> "We have failed these kids because we tried to address their problems outside of their family, home, and community. The solution which we propose will be dictated not by the behavior of the child at the moment or by the funding stream, but by the needs of the youth and family."<sup>31</sup>

### **3. Results in Kansas**

Despite significant barriers, privatized foster care in Kansas has been much more successful than the state-run system. An April 1999 independent evaluation by James Bell and Associates found that the foster-care contractors are meeting or exceeding five of the eight performance standards, falling short of the performance standards for timely placement and client satisfaction (see Table 1). The evaluation found that 27 percent of children placed in foster care were returned to their homes or placed elsewhere within six months. The goal for placement within six months is 40 percent. And 33 percent of children were returned

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<sup>29</sup> Fiscal Note for SB 633 by Senate Committee on Ways and Means, February 29, 2000.

<sup>30</sup> "Legislation Seeks Remedy for Children Caught in a Foster Care System not Designed to Serve Them," press release, Kansas SRS, March 3, 2000.

<sup>31</sup> Ibid.

home or were placed elsewhere within one year. The agency's goal is 65 percent.<sup>32</sup> In the first six months of 1999, only 24 percent of the children exited the system within six months and only 43 percent within a year.<sup>33</sup>

According to the October 1999 *Overview of SRS Activities*, an internal newsletter published by the Kansas Department of Social and Rehabilitative Services, foster-care contractors in Kansas do well in meeting the outcome measures relating to safety, limiting the number of moves, maintaining children within regional boundaries, and maintaining family and community ties for children. Reunification or placement within six months and 12 months has proven more elusive for the contractors, although they continue to make progress. Client satisfaction has been difficult to measure, because many clients do not return the satisfaction surveys they are sent. The University of Kansas (where the information regarding client-satisfaction surveys is collected) is considering changing to phone surveys to improve data collection.

Performance Measures	Performance Standards	YTD Performance
Children placed within 180 days	55%	45%
Children placed within 365 days	70%	68%
Placements finalized within 12 months	90%	91%
Adoptive placements intact for 18 months following finalization	90%	100%
Client satisfaction	90%	81%
Children placed with siblings	65%	68%
Children with fewer than three moves since referral	90%	97%
Children not experiencing abuse or neglect prior to finalization	95%	99.8%

Note: Placement refers to a permanent placement—reunification, family placement, or adoption.

Source: *Overview of SRS Activities, October 1999*.

While the privatized foster-care system has not met the standard for time frames to return home, recidivism rates, and client satisfaction, the contractors have made significant improvements over the state-run system. By January 2000, 82 percent of foster children were in family-based homes, up from 69 percent a year ago. In addition, in 1999 contractors achieved improvements including:

- Increasing the number of active foster homes;
- Making family-preservation services available statewide;
- Using client-satisfaction surveys;
- Creating a baseline of data to measure improvement and to determine gaps in service;
- Achieving the first successful Settlement Compliance Review within Child Protective Services;
- Freeing up additional state funding for children's issues;
- Creating higher visibility for children's issues; and

<sup>32</sup> "Report, Child Welfare System Improving," *The Wichita Eagle*, July 1, 1999 p. 14A.

<sup>33</sup> "Too Slow, Patience with Foster Care Starting to Wear Thin," *The Wichita Eagle*, December 13, 1999, p. 6A.

- Establishing caseload guidelines within all delivery systems, both public and private.<sup>34</sup>

## B. Florida's Foster-care Privatization

In 1996, the Florida legislature mandated that the Department of Children and Families (DCF) establish pilot programs to privatize child-protection services through contracts with community-based agencies and move toward privatizing the entire foster-care system by 2003. DCF will restructure from 15 districts to seven regional offices and plans to reduce its \$3.7 billion budget and 28,253 staff over the next few years.<sup>35</sup> The department's focus will shift from providing services to monitoring the performance of contractors.

An outside evaluation by management consultant Brian R. Peacock was completed in March 1999, reporting the early impact of Florida's community-based care in the initial pilot programs. The evaluation compared the pilot programs to specific control sites within the state child-welfare department and detailed the following conclusions:

- Among the staff formerly with the DCF and now with the private sector, the majority rate the private sector as the better system.
- Contractor staff had at least weekly in-person contact with the child in 65 percent of the cases in the pilot programs; DCF's contact rate was only 18 percent.
- The average number of children per home in the community-based foster homes was 1.6, compared to 2.7 per home in the DCF's homes.
- The average caseload for community-based agencies was 18.9 cases, compared to 40.8 cases for the DCF.
- The average number of placements per child in the community-based system was 2.79, compared to 3.61 in the DCF system.
- In one pilot project, length of stay in foster care dropped 66 percent.
- In the community-based projects, counselors changed three or more times in 12.8 percent of cases, compared to 37 percent of cases within the DCF.
- The community-based system was rated as the more effective child-protection system by 78.9 percent of the foster parents.

### 1. Case Study—Sarasota County Coalition for Families and Children

On January 1, 1997, YMCA Children Youth and Family Services became the lead agency of a coalition of 12 community agencies in the privatization of foster care and related services in Sarasota County. The district's pilot program provides services to about 600 children. The coalition cut the length of stay for children in foster care from about 20 months to 13 months, doubled the number of adoptions in a year from 20 to 40, and decreased the caseload per social worker from about 41 to 19. "For us, the transition of

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<sup>34</sup> "An Insider's Look at the Kansas Child-Welfare Privatization."

<sup>35</sup> Mark Hollis, "Abuse Agency Sees Hope in Private Sector," *Orlando Sentinel*, February 12, 2000, p. A1.

services was pretty smooth,” said Chris Card, president of the YMCA Children Youth and Family Services program.<sup>36</sup>

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Coalition social workers have smaller caseloads than their state counterparts, and they visit the children’s homes at least four times a month, compared with one monthly visit by government social workers.

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Preliminary evaluation of the Sarasota program has yielded some positive results. The number of services the coalition provides is the same as that of the state’s comparison county, so there has been no diminution of services.<sup>37</sup> Coalition social workers have smaller caseloads than their state counterparts, and they visit the children’s homes at least four times a month, compared with one monthly visit by government social workers.<sup>38</sup> Caseworkers hired by the coalition are more educated than their state counterparts, with the same average years of experience (4.7 years).<sup>39</sup>

Under the traditional system, the client would have several plans from several agencies for services such as independent-living skills, substance-abuse counseling, family counseling, or parenting skills. The coalition consolidates services into one plan with multiple services, so a client has continuity of services and social workers. According to Card, it’s a system of community stakeholders: if all of the area’s agencies and organizations are involved, they all have an interest in seeing the program succeed.

Department officials and Card attribute the program’s success to the breadth of the coalition and its member ties to the community. Twelve agencies, including local organizations such as the Child Development Center and Big Brothers/Big Sisters, make up the coalition. The YMCA functions as the lead agency, but it pulls financial and human resources from the rest of the group.

Sarasota County brought in the community to help children and their families and aid the 12 coalition agencies. The county established a 16-member “stakeholder” advisory group made up of community leaders with an interest in child welfare, an adoption advisory board, and is working on a Citizens’ Review Committee. Local businesses have participated in a variety of capacities, and the YMCA has received financial support from three major community foundations as well as the county and state.

Another reason for Sarasota’s success was the local district’s commitment to the program. “We didn’t resist the idea or fight it,” said Fran Gibbons, local district administrator. “We just started learning how to do it.”<sup>40</sup>

The district’s first step was to assign a project officer, an employee from the district who assembled a team and hired consultants to launch a public-education campaign to help the district and local community

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<sup>36</sup> Christina Mitchell, “Privatized Family Services Pilot Programs Have Had Success, Failure,” *Vero Beach (FL) Press Journal*, February 14, 2000, p. C1.

<sup>37</sup> *Ibid.*

<sup>38</sup> Hollis, “Abuse Agency Sees Hope in Private Sector.”

<sup>39</sup> Susan Orr, “Child Welfare Update,” *Privatization Watch* (April 1999), p. 2.

<sup>40</sup> Mitchell, “Privatized Family Services.”

understand the importance of privatizing services. They emphasized that the goal was to bring comprehensive and intensive services to families in crisis, while reducing duplication of services through maximizing the combined strengths of a community-based coalition of agencies.

The Sarasota program costs about \$4.5 million a year. Unlike the Kansas contractors, the Sarasota coalition carries the same risk the state had when handling cases—no matter how difficult or how protracted the case becomes, the coalition has to stay with the family until the case is closed, with no additional funding from the state.<sup>41</sup> The state reimburses the coalition for about \$3 million—the amount the district had budgeted before privatization. The balance is made up through community donations and Medicaid, which were part of the revenue when the state ran the system, but these funds were never accounted for by the department.

Much of the coalition's additional costs go to pay for more employees, an increase that officials say is a key to privatization's success. About 67 people are employed directly by the YMCA, whereas the department employed 37—the coalition uses the extra staff to increase contact with the clients.

Outcomes	Annual Goal	Sarasota Actual (May2000)	State Actual (May 2000)
Caseload/Children per Case Manger (CM)	15 children/CM	20.3 children/CM	30 children/CM
Face to face contacts	4 times per month	4 times per month	1 – 2 months
Return to care (following reunification)	0	2.7%	N/A
Safe from abuse during care	97%	98.7%	98.46%
Safe from abuse for 1 year following closure from services	95%	95.7%	N/A
Exited foster care by 12 months	72%	44.7%	29%
Average Length of Stay			
▪ Return home	12 months	12.9 months	19.6 months
▪ Adoption	30 months	36 months	41.9 months
▪ Overall	18 months	24.6 months	34 months
Adoptions			
▪ Total number of adoptions	40	26	N/A
▪ Total number of placements	N/A	30	N/A
▪ Total number of termination of parental rights (TPR)	N/A	51	N/A

Source: YMCA Children, Youth, and Family Services, Inc., Sarasota, Florida, June 2000.

<sup>41</sup> Susan Orr, "Child Welfare Update."

## Part 3

# Family Preservation

*On a December 1999 ABC 20/20 special on foster care and family preservation, host John Stossel remarked: “You hit your neighbor, you get time in jail. But you hit your kid, and you get chauffeuring, a housekeeper and a social worker?”<sup>42</sup> Stossel argues that family preservation is a good idea that’s carried to ridiculous extremes.*

*A recent case reported by the Chicago-Sun Time supports Stossel’s claims. Should the state of Illinois be paying for a load of new furniture and hiring a housekeeper for a 23-year-old woman named Canady who allegedly abused and neglected her six children?<sup>43</sup>*

*In line with its family-preservation policy, Department of Children and Family Services (DCFS) put a private contract agency on the case to counsel the mother and children, engage them in activities aimed at building self-esteem, and improve mother-child communication. The caseworker also bought the mother new eyeglasses.*

*With funds from DCFS, the agency worker bought the family a kitchen table, bunk beds, sofa bed, dressers, storage boxes, and a Kmart card so the mother could buy bedding for the beds. The agency also helped the mother avoid an electricity shutdown because of an overdue bill. And DCFS paid for a housekeeper.*

*Then, on July 27, 1999, police, acting on a tip, executed a search warrant at Canady’s home at about 1:15 a.m., found her children alone and sleeping, and 75 bags of rock cocaine.*

*The juvenile court judge rejected the state’s custody motion and instead directed that the family preservation social services be reinstated and the children remain with their mother, who now faces felony charges of unlawful possession with intent to deliver a controlled substance.*

John Stossel’s story reflects how family-preservation programs are typically viewed. Family preservation is often generically blamed when a child dies. High-publicity cases often cast a shadow over all family-preservation practices.

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<sup>42</sup> ABC News 20/20, “Why Don’t the Kids Have a Voice; John Stossel Investigates U.S. Foster Care and Adoption,” December 28, 1999.

<sup>43</sup> Raymond R. Coffey, “DCFS Pays Big in Numbers Game,” *Chicago Sun -Times*, September 9, 1999, p. 33.

One case in point is Joseph Wallace, killed by his mother in Chicago. A family-preservation worker recommended that the family *not* be preserved. He recommended to a judge that the child be removed. The judge agreed. The child was removed, but the records were lost when the family moved to another county. The child was then sent home to his death.<sup>44</sup>

In policy discussions spurred on by Joseph Wallace's death, family preservation was blamed for the death. Ignored are family-preservation programs that maintain child safety, using controlled conditions that make child safety the number one priority of the family-preservation program. Privatized programs have been successful at implementing performance incentives that focus on child safety and avoid the excesses mentioned in Stossel's program.

Family preservation is a child-welfare strategy to provide intensive services to families whose children would normally be placed in foster care. With family preservation, caseworkers make themselves available, sometimes 24 hours a day, to a limited number of families for a short time (from six weeks to six months) in an attempt to get the family over a specific crisis. As the Stossel story negatively portrays, short-term help may include housekeeping or new furniture. If children can remain safely at home once they are helped through a crisis, family preservation, which may include buying furniture or providing housekeepers, is much cheaper in the long run than the expensive alternative of foster care. A 1998 Michigan Auditor General report, for example, found that program costs for a family receiving family-preservation services averaged \$4,367 compared to the reported per child cost each year of \$12,384 for foster care and \$56,206 for institutional care.<sup>45</sup> The report concluded that: "intensive efforts to safely maintain a child in the parent's home when the child is at imminent risk of out-of-home placement can result in significant savings to the state."<sup>46</sup>

Some research reviewing the results of family-preservation programs has been critical of family preservation's effectiveness. For example, Richard J. Gelles, the Joanne T. and Raymond B. Welsh Chair of Child Welfare and Family Violence at the University of Pennsylvania's School of Social Work, argued in his book *The Book of David: How Preserving Families Can Cost Children's Lives*, which reviewed several long-term studies of family-preservation programs, that rigorous studies of family intervention have failed to show that working intensively with parents for a short period of time has any affect on future abuse rates or future needs for foster care.<sup>47</sup>

Extensive evaluations of privatized family-preservation programs in Michigan and Kansas, however, contradict the negative outcomes found in previous studies of family-preservation programs.

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<sup>44</sup> Joel J. Bellows, et al., *The Report of the Independent Committee to Inquire into the Practices, Processes, and Proceedings in the Juvenile Court as they Relate to the Joseph Wallace Cases* (Cook County, Illinois: Juvenile Court Division, October, 1993).

<sup>45</sup> *Performance Audit of the Families First of Michigan Program*, Michigan Auditor General, Family Independence Agency, July 1998.

<sup>46</sup> Ibid.

<sup>47</sup> Richard J. Gelles, *The Book of David: How Preserving Families Can Cost Children's Lives* (New York: Basic Books, 1996).

## A. Michigan Families First

Michigan created its Families First program to respond to growing public concern over the statewide increase in child abuse, neglect, and delinquency cases. The Michigan Department of Social Services (MDSS) implemented the program in 1988 as an alternative to traditional protective services such as foster care. The program provides families in crisis—those in which abuse, neglect, or delinquency are most likely to occur—with a broad range of support services on an intensive, short-term basis. Families First attempts to stabilize the family by addressing the underlying sources of stress that often lead to neglect and violence. Many program services are offered in the home, allowing caseworkers to strengthen, empower, and preserve families, rather than protect children by removing them from their homes. The services are also offered in 11 domestic-violence shelters.

Families First is a core service in Michigan’s 83 counties and 10 federally recognized Indian reservations. Private organizations provide all Families First services and training under contract with the state. The state has 63 such contracts, some serving multiple-county service areas.

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Extensive evaluations of privatized family-preservation programs in Michigan and Kansas, contradict the negative outcomes found in previous studies of family-preservation programs.

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### 1. Effectiveness

University Associates, a Lansing-based research firm, conducted an assessment of the Families First program on behalf of the Michigan Independence Family Agency (MIFA) to determine its effectiveness and to compare its cost and case outcomes with those of foster-care placement. The *Michigan Families First Effectiveness Study* spanned five years and was conducted through Wayne County Juvenile Court and used a random control-group design. The evaluation compared a group of 225 children participating in the Families First program to a similar group of 225 children receiving foster-care services.<sup>48</sup> Families were randomly assigned to either foster care or the Families First program. Only families at imminent risk of having children removed were considered for the study. Families were accepted into the study after a judge determined that the children should be removed from the home.

A major goal of family-preservation programs is to prevent the unnecessary placement of children in out-of-home care. The University Associates’ study found that when compared to a matched group of 225 children previously placed in foster care, 225 Families First children evidenced a consistently lower out-of-home placement rate at three, six, 12, 18, 24, and 30 months following intervention (see Table 3). While it is the goal of Families First to keep kids out of foster-care, the family-preservation services only last for a few weeks, and it is significant that the families have received no other reports of abuse or neglect that have resulted in their children being removed. However, a better measure of success would simply be no further substantiated reports of abuse or neglect—whether or not the report resulted in a foster-care placement.

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<sup>48</sup> Betty Blythe and Srininka Jayaratne, *Michigan Families First Effectiveness Study* (Lansing, Michigan: University Associates, 1999).

**Table 3: Out of Home Placement: Families First Versus Foster Care**

Months	Families First	Foster Care
3	7.1%	12.4%
6	15.1%	26.4%
12	23.6%	35.1%
18	27.1%	37.8%
24	28.9%	41.3%
30	31.1%	42.7%

Betty Blythe and Srininka Jayaratne, *Michigan Families First Effectiveness Study* (Lansing, Michigan: University Associates, 1999).

In fact, critics have charged that foster care is the intervention, not the outcome, so avoiding foster care is not a good outcome to measure.<sup>49</sup> They argue that future incidence of abuse is a more appropriate measurement because a family could have further substantiated reports of abuse and not necessarily have their children removed. A case in point is the Canady case in Chicago where Canady's children were found alone with 75 bags of cocaine. If family preservation focuses only on out-of-home placement, a case like Canady's would be categorized as a success because the judge did not remove the child and reinstated family-preservation services.

The University Associates' study stressed that the program places a high priority on the safety of children. Contract social workers were much quicker to act than state social workers, and they received extensive initial and ongoing training to help ensure that child safety was considered throughout the intervention. Also, these caseworkers spent much more time with families, including a significant amount of their time in the families' homes on a daily basis, working with the parents and monitoring the safety of the children (see Table 4).

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The cost of a family receiving Families First services averaged \$4,367, versus the reported per-child cost of \$12,384 for foster care and \$56,206 for institutional care.

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## 2. Cost Savings

Families First was also cost-effective compared to foster-care services. The cost of a family receiving Families First services averaged \$4,367 in fiscal year 1996–97, versus the reported per-child cost of \$12,384 for foster care and \$56,206 for institutional care.<sup>50</sup> If foster-care placement were prevented for 85 percent of the 26,392 children referred to Families First over the program's six-year period, savings to the state would amount to \$185 million—more than the fiscal year 1999 cost of \$155 million for providing foster care for the entire state.<sup>51</sup>

<sup>49</sup> Orr, *Child Protection at the Crossroads*.

<sup>50</sup> Blythe and Jayaratne, *Michigan Families First Effectiveness Study*.

<sup>51</sup> Michigan Family Independence Agency, Foster-Care Child Care Fund Statistics, [www.mfia.state.mi.us/reports/childcare/ann3.pdf](http://www.mfia.state.mi.us/reports/childcare/ann3.pdf).

	Families First	Foster Care
Initial Contact	79 percent of cases were contacted by workers within 24 hours of referral.	On average, 22 days passed until workers made initial contact with the family.
Accessibility	100 percent of the workers reported being available 24 hours a day.	40 percent of the workers reported being available 24 hours a day.
Open Cases	Two months after referral, no cases remained open. The average length of the intervention was 28 days.	Two months after referral, 88 percent of the cases remained open.
Face-to-face Contact	Workers reported spending an average of 41 hours, 17 minutes in face-to-face contact with families over the time the case was open.	Workers reported spending an average of 4 hours in face-to-face contact with families over the first 6 weeks of services.
After-hours Contact	During the week, all workers reported face-to-face contact after hours with families, for an average of 9 hours, 47 minutes.	During the week, only 15 workers reported face-to-face contact after hours with families, for an average of 2 hours, 6 minutes.
Weekend Contact	On the weekends, 77 percent of the workers reported face-to-face contact with families, for an average of 4 hours, 57 minutes.	On the weekends, only 1 worker reported face-to-face contact with a family, which lasted 80 minutes.
Flexible Spending	78 percent of the workers spent an average of \$345 in flexible funds, mostly on items such as rent, furniture, and utilities.	Only 7 percent of the workers reported using any funds on their families, and they did not spend more than \$60.

Source: Michigan Family Independence Agency, 1999.

## B. Kansas Family-preservation Privatization

In 1996, Kansas privatized its family-preservation services as one component of the state's extensive child-welfare privatization initiative. The program exceeded performance goals over the last four years on measures including safety of children during program participation (and for six months after participation) and children not requiring out-of-home placement during and after program participation (see Table 5).

Outcome Goals	Performance Standard	YTD Statewide Performance
Outcome Goal #1 Engagement in Program	97%	97.9%
Outcome Goal #2 Safety during program participation	90%	99.3%
Outcome Goal #3 Safety after 6 months of program participation	80%	95.8%
Outcome Goal #4 No placement during participation	80%	93.8%
Outcome Goal #5 No placement within 6 months after case closure	80%	94.0%
Outcome Goal #6 Client satisfaction with service provided	80%	94.0%

Source: Kansas Department of Social and Rehabilitative Services, 1999.

## C. Arizona Family Builders

The Family Builders' program is a public-private partnership that provides an alternative-response system for families who have been reported to the child-abuse hotline, but initial screening with a hotline-assessment tool rated the families as having low risk of child abuse or neglect but still in need of services. The program started on January 1, 1998 in Arizona's Maricopa and Pima counties, and since then, over 2,000 families have signed onto service plans with eight service providers. The Arizona Child Protective Services (CPS) agency reviews and categorizes child-abuse reports from the child-abuse hotline. Reports identified for Family Builders are given to a county child-welfare specialist, who determines whether the report should be sent to CPS for investigation or to a Family Builders' provider. Cases involving reported sexual abuse, reported high or moderate-risk families, or children in foster care are not referred to Family Builders.

Within 48 hours of receiving a CPS referral, a Family Builders' specialist makes an unannounced visit to the family. During the initial contact, the Family Builders' specialist explains that he or she is there because a report was made about the family to CPS. The specialist then offers services to the family. The program is voluntary—families choose whether to participate in an assessment and services offered by the program. If a Family Builders' social worker determines that the child is in imminent danger of abuse or neglect—at the initial contact or anytime during the course of service delivery—the social worker is required to refer the case to CPS or law enforcement immediately.

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Family-preservation privatization experiences in Arizona, Michigan, and Kansas demonstrate that these programs can protect children and preserve families while reducing the cost of child-welfare services.

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Thanks to Family Builders, the response rate to hotline calls reporting potential abuse (investigations by CPS and referrals to Family Builders) climbed to 100 percent, compared to 84 percent by CPS before the start of the program. For the first time, all calls to the child-abuse hotline were investigated.

Substantiated CPS reports made during fiscal year 1999 for all families receiving Family Builders services were analyzed for the Arizona Department of Economic Security.<sup>52</sup> A total of 1,607 families signed onto service plans. Of those families:

- Three (0.18 percent ) received a substantiated report of child abuse or neglect within six months of exiting the program;
- Five (0.31 percent) had a substantiated CPS report during the time they were in the program; and
- Twenty-five (1.5 percent) were referred back to CPS.

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<sup>52</sup> *Family Builders Pilot Program, Annual Report, Fiscal Year 1999*, prepared for the Arizona Department of Economic Security, Division of Children, Youth and Families, LeCroy & Milligan Associates, Inc., January 2000.

Of the 2,082 cases referred to Family Builders who did not sign a service plan, 19 families (1 percent) had subsequent substantiated incidences of abuse and/or neglect—five times the rate of families that accepted the services but less than the general population in Arizona.<sup>53</sup>

### ***Foster-care Placement***

In 1999, a total of 21,872 priority three and four hotline calls were categorized as having the same level of risk to the child for severity of abuse and neglect. CPS investigated 15,817 of them, while 6,055 were referred to Family Builders. With CPS investigations, 16 percent of children were placed in out-of-home care. With Family Builders' interventions, only 1.12 percent of children wound up placed in out-of-home care.<sup>54</sup>

Family Builders program participants had very low levels of further substantiated incidents of abuse, and even families that were visited by caseworkers for the program but did not choose to participate had low levels of recidivism. Families that were referred to the Family Builders' program were compared to a control group of families that had the same level of potential risk to their children but were investigated by CPS. The results show that the state agency was much more likely to remove children from their homes, and that for low-risk cases, privatized voluntary services offer a reliable way to protect children while reducing the emotional and financial cost of foster care.

## **D. Family-preservation Summary**

The overall research on family-preservation performance is mixed. More research needs to focus on comparing subsequent reports of abuse for families involved in private family-preservation programs. Family-preservation privatization experiences in Arizona, Michigan, and Kansas, however, demonstrate that these programs can protect children and preserve families while reducing the cost of child-welfare services by reducing the need for foster-care services.

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

## Part 4

## Child-abuse Investigations: Less than the Weight of Evidence

*In January 1997, 13-year-old Jason Taylor's teenage neighbor told a school counselor that six months earlier, he had seen Jason "on top of his 12-year-old sister with his pants down, making thrusting motions."<sup>55</sup> The school counselor made a report to the hot line and the local police. The Department of Children and Family Services (DCFS) investigator instructed Jason's parents to have their daughter (Jason's sister and the alleged victim of sexual abuse) immediately examined by a physician. The pediatrician's evaluation showed no evidence of sexual abuse, the girl vehemently denied the incident, and the boy recanted his accusation. Even so, the investigator threatened to take Jason into protective custody if the Taylors did not abide by the investigator's protective plan, which required the installation of an alarm system on Jason's bedroom door to alert the family if Jason ever left his room or for Jason to move out of his home and live where no other children were present. The Taylors installed the alarm. The Illinois Department of Children and Family Services (DCFS) indicated (a case is indicated when the caseworker does not have enough evidence to substantiate the case but has cause to believe the abuse occurred) Jason Taylor for sexual penetration.<sup>56</sup>*

Jason is a plaintiff in a federal class-action suit against Illinois DCFS Director Jess McDonald. The suit, filed by Diane Redleaf, a family-law practitioner with the Chicago firm of Lehrer & Redleaf, alleges that the agency's policies and procedures for investigating child abuse and neglect are unconstitutional because they violate the 14th Amendment's due process clause.<sup>57</sup>

Redleaf's suit charges that in the last two years, as many as 100,000 people in Illinois were indicated for child abuse and neglect based on less than the weight of the evidence. Since Redleaf initiated her lawsuit in June 1997, 14 of the lawsuit's 22 plaintiffs have been exonerated by DCFS. Their cases have been reversed from "indicated" to "unfounded" and their records have been expunged from the State Central Registry in Springfield, Illinois.

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<sup>55</sup> Gail Hamburg, "Why Children are Removed from Their Homes—For Better or for Worse," *Chicago Tribune*, February 22, 1998, p. 20.

<sup>56</sup> Indicated is a secondary category that many states have to label abuse cases when there is not enough evidence to substantiate the case.

<sup>57</sup> Hamburg, "Why Children are Removed."

Cases like this Illinois class-action suit have led researchers, child advocates, and state legislators to argue for changing the role of the child-abuse investigator. Investigating child abuse has traditionally been handled by the state or local child-protection agency. Recent research, however, has suggested that child-abuse investigations could be more appropriately handled by law-enforcement agencies.<sup>58</sup> Social workers play a contradictory role as investigator and family healer. Investigations put social workers in conflict with their other primary goal of delivering services to families.

**Key Problems with Social Work Investigations of Child Abuse**

1. Administrative investigations don't provide the due process that criminal investigations do.
2. Social workers are not experts at collecting evidence or building criminal cases.

Critics have charged that most social workers do a poor job of collecting evidence. As Arkansas Rep. Carolyn Pollan, who sponsored Arkansas's law enforcement child-abuse investigation law explained, "many times, if you don't get what you need in the original investigation, you lose the case."<sup>59</sup>

Judges also object to the poor quality of evidence presented when they are asked to remove children from their home. For example, before Arkansas turned its investigations over to state police, Pulaski County Judge Joyce Warren complained about the poor quality of evidence she saw in her courtroom. "They'll say, 'The mother is a drug addict and she's neglecting the children,' and I'll say, 'How do you know? On what evidence do you base your statements?' They'll look through their notes and say, 'My supervisor told me.' So, I'll say, 'How does your supervisor know?' and they'll look through their notes and say, 'I don't know.' That kind of stuff scares me."<sup>60</sup> Too often, Warren says, she sees children returned to abusive or neglectful homes because caseworkers come to court with insufficient evidence to warrant placing them in foster care.

Similarly, a March report by an independent panel which evaluated New York City's child-welfare system, found that caseworkers are often so ill-prepared that they cannot explain to a judge why children were removed from their homes.<sup>61</sup> The report concluded that judges frequently place children in foster care even when there is insufficient evidence of abuse and neglect—out of fear that if they denied petitions because they had not been given enough information, a child might die and the result could be "withering media attention."<sup>62</sup>

Although often thought of as a social service, child-protection is really a police action. The state conducts an investigation of a family based on an allegation and can use police power to enter a home and take a child or children into protective custody.<sup>63</sup> The key difference is that for child-protection agencies (CPS), unlike the police, the focus is not on the perpetrator (the parent), but on the victim (the child). Hence it is the child who

<sup>58</sup> Orr, *Child Protection at the Crossroads*.

<sup>59</sup> Kevin Freking, "Abuse Cases Need Experts from Start, Officials Say," *Arkansas Democrat-Gazette*, October 12, 1996, p. A1.

<sup>60</sup> Chuck Plunkett, "Judge: Deal Gets Rawer for County's Abused Kids," *Arkansas Democrat-Gazette*, January 1, 1999, p. A1.

<sup>61</sup> Sengupta, "Bleak Assessment Offered on City's Child Welfare System."

<sup>62</sup> *Ibid.*

<sup>63</sup> Orr, *Child Protection at the Crossroads*.

is removed, not the parent, when the situation is dangerous. This concentration on the child instead of on the abuser is part of the problem. It treats child abuse, with rare exceptions, outside of the bounds of criminal prosecution. The same abuse, perpetrated against anyone other than a relative, would result in assault charges.

Child-abuse investigations also violate due process for the adults accused of child abuse or neglect. Currently, less than 20 percent of all substantiated cases of child maltreatment ever go to criminal or civil court. Most cases undergo only an administrative process rather than any criminal proceedings. As a result, there is no due process, and hence, no ability to challenge the results. All records are closed and confidential. There is no way to challenge CPS findings, because there is no public record of proceedings.

Child abuse is criminal, and police are trained investigators; therefore police should gather the evidence, according to growing numbers of critics of current child-protective services programs.<sup>64</sup> Child-protection interventions are by nature accusatory. Cloaking the investigation under social services and anonymity does nothing to make it less so. Local police are most fit to conduct investigations, and if the evidence indicates a crime, the case should proceed to criminal court.<sup>65</sup>

Some states are already moving toward recriminalizing child abuse. Arkansas has moved its hotline and investigation units to the state troopers' department. In Florida, four counties have their sheriff's department conduct all child-abuse investigations.

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Although often thought of as a social service, child-protection is really a police action.

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## A. Arkansas

Arkansas was the first state in the nation to shift child-abuse investigations from the social services department to the police. The restructuring, championed by Arkansas Rep. Carolyn Pollan, makes the state police responsible for investigating child-abuse cases, while Department of Human Services workers still take the lead in neglect cases. The 1997 law states that:

*It is difficult for caseworkers with the Division of Children and Family Services of the Department of Human Services, which is currently charged with the responsibilities of investigating child abuse and providing services to children and families, to separate their dual roles as investigators and service providers; that many studies show that child abuse investigations are compromised when these very different functions are not separated; that child abuse is a crime and suspected child abuse should be investigated with due diligence by trained law enforcement officers. Therefore, it is declared to be the intent of this General Assembly to authorize the Arkansas State Police to create a Family Protection*

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<sup>64</sup> For example, this was the finding of Arkansas legislators and the rationale used in their decision to outsource all child-abuse investigations to law enforcement. Freking, "Abuse Cases Need Experts from Start"; HB 1661, 81<sup>st</sup> General Assembly, Regular Session 1997, State of Arkansas. Several other states including Florida (in which four counties use law enforcement for child-abuse investigations), Arizona, and Colorado are considering separating the role of investigator and social worker.

<sup>65</sup> Also, see Orr, *Child Protection at the Crossroads*, for a detailed discussion of why child-abuse investigations should be handled by law enforcement.

*Unit, either through transfer or by contract, to conduct investigations into severe child abuse as defined by interagency agreement and to administer the child abuse hotline.<sup>66</sup>*

The law also calls for better coordination between the police and the Arkansas Children and Family Services agency. The law states:

*If the powers and duties of the Department of Human Services in regard to the child abuse hotline and child abuse investigations are transferred to the Arkansas State Police, the Family Protection Unit of the Arkansas State Police and the Division of Children and Family Services of the Department of Human Services shall enter into a memorandum of understanding that shall include provisions that address the sharing of information reported to the child abuse hotline with the Division of Children and Family Services when such information is necessary for the Division to provide appropriate service delivery to children and families.<sup>67</sup>*

The law was written this way to ensure that families that need social services are not overlooked now that the police are handling the investigation.

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Social workers play a contradictory role as investigator and family healer. Investigations put social workers in conflict with their other primary goal of delivering services to families.

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Furthermore, the law calls for strict oversight of law-enforcement investigations and requires the Family Protection Unit to develop and maintain statewide statistics regarding the incidence of child abuse. “Each county and city law enforcement agency conducting child abuse investigations through referral from the child abuse hotline shall report the status and disposition of these investigations to the Family Protection Unit on a monthly basis.”<sup>68</sup>

Recognizing that transferring child-abuse investigations to the police will have start-up costs, the Arkansas legislature allocated \$8 million for start-up costs over the first two years of the program. The child-protection unit also receives the funds that were previously allocated to the Arkansas Children and Family Services agency for their investigations.

Beginning in October 1997, the Arkansas State Police took over physical and sexual abuse allegations. Reports show that the arrangement has promise. Statewide, allegations of the most serious forms of physical abuse and sexual abuse were investigated within 24 hours in 78 percent of cases, up 7 percent from September 1997.

The Center for the Study of Social Policy (CSSP) published an April 2000 report evaluating the efforts of the state police and assessing the state’s progress in 1999 in meeting terms of a 1994 settlement agreement over child maltreatment in a case known as “Angela R.”<sup>69</sup>

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<sup>66</sup> Arkansas Code, Title 12. Family Protection Unit, §12-8-502.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> *An Assessment of the Transfer of Responsibility for Child Abuse and Neglect Hotline and for Investigation of Abuse to the Arkansas State Police* (Washington D.C.: Center for the Study of Social Policy, April, 2000).

The report found problems including:

- A strained relationship between police officers and civilian investigators;
- Emphasis on criminal aspects of an investigation at the expense of child-protection issues;
- Resistance by state police because investigating abuse was regarded as less prestigious than investigating other crimes; and
- Screening-out some calls that should have been accepted by the abuse hotline.

Captain Doug Williams, who heads the Family Protection Unit, told the Associated Press that, during the time CSSP was evaluating the program, reorganization efforts were underway. Williams said that as of April 2000, the Family Protection Unit had a compliance rate of 85 percent or above on different components of the 1994 settlement agreement.<sup>70</sup>

The Family Protection Unit has also significantly improved its case clearance rate since the CSSP evaluation. In August 1999, the unit closed 280 cases. In December 1999 the unit closed 485 cases. In August, only 37 percent of the cases were being completed within the 30 days required by the state police's contract with the Department of Human Services.<sup>71</sup> The December 1999 rate rose to 84 percent cleared within 30 days, one percentage point short of the 85 percent mandated by the contract.<sup>72</sup>

Wayne Jordan, spokesman for the Arkansas State Police, calls the new system a hallmark type of deterrent to stop predators from preying on and abusing children. "You're dealing with the crime first and then on from there," he said of the new Family Protection Unit.<sup>73</sup>

The Arkansas State Police has established a protocol to screen calls that come into the child-abuse hotline as priority-one or priority-two calls. The priority-one calls involve serious child abuse or sexual abuse and are investigated immediately by the state police in conjunction with local law enforcement. The priority-two calls involve neglect or other less serious cases and are referred to Department of Human Services Children and Families division for services.<sup>74</sup> This separation of criminal calls from those that need social services helps to ensure that families are not frightened away from accepting services because they fear prosecution.

The most significant change, according to Sergeant Kurt Louis, of the Arkansas Family Protection Unit, is that cases are now presented for prosecution with the elements of evidence that it takes to gain a conviction.<sup>75</sup> Before the state-police arrangement, prosecutors could not charge parents accused of the most serious forms of child abuse and neglect because the written reports compiled by DHS officials were often inadequate to file charges. A long time may have passed between a child being removed from a home and

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<sup>70</sup> "State Police Improving in Handling Child-abuse Cases," Associated Press, April 13, 2000.

<sup>71</sup> Seth Blomeley, "Family Protection Unit Steps Up Pace," *Arkansas Democrat-Gazette*, February 27, 2000, p. A1.

<sup>72</sup> Ibid.

<sup>73</sup> Mari Serebrov, "Police get Abuse Cases in Arkansas," *Tulsa World*, November 27, 1997, p. A31.

<sup>74</sup> Sergeant Kurt Louis, Arkansas Family Protection Unit, interview with author, March 2, 1999.

<sup>75</sup> Ibid.

the police being contacted to complete an investigation. Often by the time the police started their investigation the evidence or the perpetrator was gone.

Although contracting with the state police has improved evidence collection and the overall quality of investigations, the shift to state police is not a panacea. According to Louis, the most difficult barrier to implementing the new investigation process has been dealing with judicial officials. He says that “prosecutors and judges have now begun to take child abuse more seriously, but unless it is the most sensational of cases, child abusers often receive a slap on the wrist with probation as punishment and no jail time.”<sup>76</sup> He said that jail overcrowding also contributes to more lenient punishments for child abusers.

## B. Florida

In Florida, the 1999 Kayla McKean Child Protection Act mandates that law-enforcement review all child-abuse complaints.<sup>77</sup> The law is designed to make law-enforcement agencies accountable for child safety. By mid-2000, four counties had begun programs in which law enforcement actually investigated the initial child-abuse report.

The longest-running program (four years) is in Manatee County. The sheriff’s office contracts with the state to investigate child-abuse cases and in fiscal year 1998-99 was paid more than \$1.1 million by the state to run the program. For each complaint the sheriff’s office conducts a child-abuse and criminal investigation simultaneously. Sheriff investigators with some civilian staff go to all calls in Manatee County, with the full investigation resting with the law-enforcement staff. So far, all accounts of the Manatee program are favorable. The sheriff’s office estimates that they have saved as many as six to eight children through their child-abuse investigations.<sup>78</sup>

Manatee County, DCF-representative Steve Kibby reports that Manatee County now has higher conviction rates for child abusers. “We have taken more criminal child abusers off the streets. Especially boyfriend perpetrators, who pick up a woman, move in, beat her kids, and escape before DCF ever got around to involving the police. These men would do this over and over again with different women while continually escaping the child-welfare system.”<sup>79</sup>

Pinellas, Pasco, and Broward counties are also legislatively mandated to contract with law enforcement for child-abuse investigations within three years. Officials from those counties have worked with the Manatee County sheriff’s office since late 1998 to study how the unit is set up and how to build a similar unit in their counties.

Manatee’s system allows for the preservation of evidence, a better assessment of potential dangers to children, and better working conditions for child-abuse investigators, according to Captain Rod Steckel of

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<sup>76</sup> Ibid.

<sup>77</sup> Florida Senate Bill 0338, Kayla McKean Child Protection Act

<sup>78</sup> Brett Barrouquere, “Manatee is Model for State Program,” *Sarasota Herald-Tribune*, June 1, 1999, p. 1A.

<sup>79</sup> Steve Kibby, District 8, Florida Department of Children and Families, interview with author, February 17, 1999.

the Pinellas County Sheriff's Office.<sup>80</sup> Steckel is overseeing his county's efforts to replicate the Manatee program.

The sheriff's department has much stricter hiring criteria for its investigators. Outsourcing to the sheriff's office has allowed Manatee child-abuse investigators to be paid better—they now are on a scale with sheriff's deputies and receive regular merit raises. It also means workers are better equipped with computers, cell phones, and cars. Higher pay and modern equipment have resulted in lower employee turnover.<sup>81</sup>

One reason for shifting investigations to the police is to have due process for parents. Experiences in Florida, however, demonstrate that having law enforcement investigate child abuse does not necessarily guarantee a case being prosecuted through the criminal courts.<sup>82</sup> As Manatee County DCF spokesperson Steve Kibby explains, “all we have done is contract for investigations, the same juvenile rules of procedure apply to our investigations.”<sup>83</sup> In Florida, it is up to the district attorney to decide whether to file charges in criminal court or have the child removed through the juvenile court system. Even in serious cases, the district attorney may decide to pursue a child abuser through the juvenile courts. When a child is removed through the juvenile court, a preponderance of evidence is required rather than the weightier evidence required for a criminal trial. To guarantee parents a criminal court hearing would require further legislation.

By contracting with law-enforcement agencies, child-welfare agencies can ensure that more serious child abusers are punished, that evidence is more likely to be collected in a competent manner, and that social workers avoid the inherent conflict between child-abuse investigations and providing families with social services.

#### **Benefits to Law Enforcement Investigating Child Abuse**

- Higher conviction rates for child abusers;
- Social workers can focus on helping families;
- Accused parents are judged based on a higher standard of evidence; and
- Lower employee turnover.

### **C. One-stop Child Protection**

In Springdale, Arkansas the state police child-abuse unit is housed in the Children's Safety Center, a nonprofit organization that brings together caseworkers, investigators, volunteer advocates, and medical and mental health professionals in a state-of-the-art center for abused children. Nationwide,

it's the first time a state police child-abuse unit has been placed in a children's advocacy center, according to Captain Williams, commander of the unit.<sup>84</sup>

The Children's Safety Center is designed to be child-friendly. Mimi Mathis, the center's director, describes the center:

<sup>80</sup> Barrouquere, “Manatee is Model for State Program.”

<sup>81</sup> Ibid.

<sup>82</sup> Kibby, interview with author.

<sup>83</sup> Ibid.

<sup>84</sup> Jennifer Hansen, “Springdale Center, Police Unit to Protect Abused Children,” *Arkansas Democrat-Gazette*, August 23, 1998, p. B6.

*The walls of its waiting room are painted dark teal. Comfortable couches cluster on a greenish-gray rug. To one side is a light blue playroom with a raised ceiling painted with soft clouds. A corner of the playroom offers children two small nooks containing blackboards—places to retreat, draw, and feel safe.<sup>85</sup>*

The examination room is equipped with cameras that allow doctors to videotape exams and take still photos from the videos to use as evidence. The room's walls are covered with a mural depicting a summer day in the country with hot-air balloons floating over children playing on grassy hills. "It's hard to take children's minds off an exam," Mathis observed, "but at least the room feels friendly and warm."<sup>86</sup>

*"Before, when abuse was discovered, DHS would do their investigation, then law enforcement would investigate, then prosecutors—the child would have to tell the story to lots of strange adults, some in uniform, some carrying guns, some sensitive, some not," said Dr. Daniel W. Smith, chairman of the center's board of directors and assistant professor of psychology at the University of Arkansas. "It was not an ideal arrangement for the children or for prosecutors."<sup>87</sup>*

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## Higher pay and modern equipment have resulted in lower employee turnover.

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Similarly, in Harris County, Texas, The Children's Assessment Center is a one-stop shop for child sexual-abuse victims.<sup>88</sup> A child suspected of being sexually abused will be brought here for a doctor's examination in the first-floor clinic, interviewed and videotaped by specially trained personnel, assigned a child advocate to see him or her through the court system, and given regular counseling sessions. The center's goal is to put an end to the practice of having a child go through an emergency room examination, perhaps by a resident who has never handled a rape case before, and then a series of exhausting interviews by assorted law-enforcement departments and social service agencies. Sixty-seven videotape machines stand in rows and columns in one businesslike room of the center. Each one leads to rooms where cameras are hidden in closets. In another room someone from the police or sheriff's office or CPS or the district attorney's office watches. The interviewer excuses herself for a moment, steps out of the room, then asks the other viewers if there is anything missed, any statement that should be reviewed again. When an interview is over, that is it, at least until (and if) the case goes to trial. There is no longer a gauntlet of interviews with different law-enforcement and social service agencies for a child to negotiate.

The \$10.5 million facility, opened two years ago after moving out of Children's Protective Services headquarters, has paintings and photographs lining the walls. There are playrooms and a new dance room, lots of space and toys—like a really nice preschool or day-care center. A public/private venture, it is funded through Harris County Commissioners Court and the Children's Assessment Center Foundation. Eleven partner agencies share the space, offering a range of legal, law enforcement, medical, and counseling services. Although the center operates during daytime hours, its personnel are on call around the clock to handle sexual abuse cases involving anyone up to 18 years old.

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<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Margaret Downing, "Once is Enough," *Houston Press*, March 16, 2000, p. B3.

The Children's Assessment Center also has much better training for its investigators during sexual-abuse interviews. Leading questions in interviews are out. No confessions are forced. Anatomical dolls are brought out only as a last-ditch effort. "Seventeen years ago, yes, we asked horribly leading questions. 'Yes, your daddy did this to you, didn't he,' " said executive director Ellen Cokinos.<sup>89</sup> She maintains that training has made forensic experts out of her employees.

The Springdale Children's Safety Center and the Harris County Children's Assessment Center reflect a national trend toward one-stop child protection. During the late 1990s, several child-abuse centers opened up across the nation with the goal of integrating the different agencies involved with the child-protection process and ensuring that children are not subject to more than one interview.

These centers are close to what many child advocates call the ideal child-protection arrangement. A complete one-stop child-protective service center, however, would go even farther than the Springdale arrangement. It would include child-welfare caseworkers, doctors and a medical team, state attorney representatives, a video team, a citizen's review board (including a doctor who would be present at medical exams to present a second opinion), and, finally, a judge, who would be available to issue court orders.<sup>90</sup> All of these parties would be at the same place at the same time for quick and complete child-abuse investigations. Such a system likely would save time and money and eliminate the problem of communication gaps between child-welfare agencies, the police, and the judicial system. This approach would also likely reduce false reports of child abuse, allow for prompt prosecution of child-abusers, protect the endangered child, and relieve child-welfare investigators of the fear of facing prosecution for leaving children in dangerous situations. Such a system would offer more accountability and checks and balances against any one agency abusing power at the expense of children or families.

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<sup>89</sup> Ibid.

<sup>90</sup> Theresa L. Brehm, "Families Need 1-Stop Protection," *Orlando Sentinel Tribune*, March 5, 2000, p. A10.

## Part 5

# Adoption

*He looks and acts like any other 16-year-old, but Michael knows his story is anything but ordinary.<sup>91</sup> Unlike hundreds of other Kansas teens, Michael escaped foster care and found a permanent home and family. He recognizes how uncommon that is. “There’s not a word big enough, good enough for them,” Michael says about his family. “I knew I was headed for jail and someday, it would be prison. Without them, I don’t know where I’d be.”*

*Until a year and a half ago, Michael was Matthew, a kid raised in a single-parent home where alcohol and drugs were prevalent. His mother’s boyfriends would routinely move in and take over running the house, including disciplining the children. A horrible beating from one caught the attention of seven-year-old Matthew’s teachers, who reported abuse. Investigators found that his mother watched the beating but refused to intervene.*

*Thus began Matthew’s seven-year odyssey of entering, leaving, and re-entering the state foster-care system. The transience of foster care and the betrayal and pain Matthew had experienced turned him into a troublemaker. By 14, he said, “The police knew me. I’d been involved in robbery, vandalism, drugs, everything. I was like a rag doll, in the (Wichita) Children’s Home and out, going downhill.”*

*Patrick and Jalene McFadden remember well the 1996 Kansas State Fair, where an exhibit changed their lives. The exhibit encouraged more families to adopt children from the foster-care system. The McFaddens left their name and phone number and promptly forgot about it. A few weeks later, the agency called and encouraged the McFaddens to take the 30-hour orientation required of all foster and adoptive parents in Kansas. They took the class and later a family recruiter asked Jalene if she’d seen a “Wednesday’s Child” segment on KSNW, Channel 3, that featured Matthew and his younger sister. Not only had Jalene seen the segment, she had taped it and watched it twice. Something tugged at her heart.*

*When his adoption became final in April 1998, Matthew became Michael Patrick McFadden, taking his adoptive father’s middle and first names, as well as his last. “I wanted to get away from the old me,” Michael said. “I had to start new and fresh, as somebody else. I like this person a lot better. I have a better social life, better grades—I can go out for sports now and I never thought about that before.”*

*Michael is optimistic about his future. He may enlist in the Navy, or he may go to Emporia State, which most of the family has attended. None of it would have been possible without the McFaddens. Michael says more teens in foster care deserve a chance at adoption.*

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<sup>91</sup> Jennifer Comes Roy, “Thankful for a Family,” *The Wichita Eagle*, November 25, 1999, p. 1A.

Michael found a permanent home because he was in foster care in Kansas, where, unlike many other states, the adoption process is a central focus of child-protection rather than an afterthought. Child-welfare agencies are often so busy investigating child abuse, placing children in foster care, and providing services to families, that there are often not many resources left to market children to prospective parents. Kansas privatized the adoption process in 1996, allowing the nonprofit Lutheran Social Services Agency to focus exclusively on the adoption process. Adoption has proven the component of child-welfare services most fertile and successful for privatization. Kansas and Michigan have the longest-running adoption privatization programs.

## A. Kansas's Adoption Privatization

On October 1, 1996, Kansas privatized adoption services, transferring approximately 750 children to the care of Lutheran Social Services (LSS), the agency that won the contract for the entire state. For each child in its care, LSS received \$15,538, although LSS could choose approximately 10 percent of the children to exempt from the fixed rate because of special conditions, such as medical fragility. LSS recruited and trained adoptive parents, found homes for all the children, and provided post-adoption services for up to 18 months.

During the four-year contract with LSS, Kansas has experienced an 81 percent increase in the number of finalized adoptions. In fiscal year 1999 the contractor placed 555 children into permanent adoptive homes.<sup>92</sup> In 1999 Kansas averaged over 46 adoptions a month, compared to an average of 24 adoptions a month before privatization. Moreover, with LSS, Kansas has an adoption disruption rate of 7.1 percent—less than half the national average.

In 1999, Kansas reached the end of the first contract cycle and recently rebid the adoption contract. LSS lost the contract to Kansas Children's Service League, which submitted a lower bid and had a better proposal.<sup>93</sup>

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This created a perverse incentive: the longer the child remained in state care, the greater the reimbursement from the government.

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## B. Michigan's Adoption Privatization

As of March 1, 2000 there were 5,559 Michigan children who had their parent's rights terminated.<sup>94</sup> Of the 5,559 children, 4,316 have adoption as their permanency planning goal. Five hundred and eighty-seven of these children are currently photo-listed on the Michigan Adoption Resource Exchange (MARE). Photo-listing indicates that after 90 days of being available for adoption, and despite agency recruitment efforts, no adoptive family had been identified for the child.

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<sup>92</sup> Governor Bill Graves and Secretary Janet Schalansky, *Finger-tip Facts About the Kansas Department of Social and Rehabilitation Services* (Wichita, Kansas: Department of Social and Rehabilitation Services, January 2000).

<sup>93</sup> Donna McGuire, "Agencies Awarded Children's Contracts," *The Kansas City Star*, February 25, 2000, p. A1; Teresa Markowitz, correspondence with author, June 1, 2000.

<sup>94</sup> Michigan Family Independence Agency, [www.mfia.state.mi.us](http://www.mfia.state.mi.us), June, 2000.

Since 1992 Michigan has contracted with approximately 55 different providers for adoption services. In 1992 Michigan changed its payment structure to reward the expeditious placement of children in appropriate, adoptive homes. Prior to 1992, the care of most foster children was subsidized by the state to providers through an “actual cost” payment arrangement. Under this scheme, providers were reimbursed by the state for each “unit of service” they provided. These subsidies were paid in per-day units for the care of children, regardless of the type of care given. This created a perverse incentive: the longer the child remained in state care, the greater the reimbursement from the government.

Providers are now paid based on the difficulty of finding a child a home. The harder a child is to place, the higher the payment. All foster-care providers under contract with Michigan’s Family Independence Agency (FIA), licensed to provide adoption services, and all nonprofit licensed adoption agencies without a foster-care program, are offered adoption contracts. Payment for adoption is based on an outcome-based reimbursement system. Agencies are rewarded for achieving outcomes related to the timeliness of placement (see Table 6).<sup>95</sup>

- A **residential rate** (\$10,000) will be paid to an agency that places a child for adoption directly from residential care. The child must be placed within 120 days of leaving residential care.
- A **MARE rate** (\$9,200) will be paid to a noncustodial agency (an agency not managing the child’s foster care) that places a child registered on MARE with a recruited family. A foster or relative family is not considered a recruited family. The child may be placed in foster care with the prospective adoptive family for up to 150 days.
- An **Intra-agency MARE rate** (\$6,900) will be paid to the custodial agency that places a child registered on MARE for 12 or more consecutive months with a recruited family. A foster or relative family is not considered a recruited family. The child may be placed in foster care with the prospective adoptive family for up to 90 days. Extensive documentation of recruitment efforts is required to obtain this rate and must be approved by the contract manager at FIA.
- A **five-month premium rate** (\$8,600) will be paid to an agency that places a child in its care in adoption within five months of the child’s permanent wardship date.
- An **enhanced rate** (\$6,380) will be paid to an agency that places a child in its care in adoption within seven months of permanent wardship. An agency will also receive the enhanced rate for placing a child within nine months of permanent wardship if the child was referred to the agency for adoptive placement prior to registration of the child on MARE.
- A **standard rate** (\$3,750) will be paid to an agency that places a child in its care seven months after the date of permanent wardship.
- An **enhanced pre-placement fee** (\$2,600) will be paid to an agency when a child in its care is referred to another agency or FIA local office within three months of the child’s permanent wardship date.
- A **standard pre-placement fee** (\$1,300) will be paid to an agency when a child in its care is placed by another agency or FIA local office, and the criteria for an enhanced pre-placement fee does not apply.

**Table 6: Michigan Adoptions Placements by Reimbursement Category**

<sup>95</sup> Michigan Family Independence Agency, Adoption Contract Management, [www.mfia.state.mi.us](http://www.mfia.state.mi.us), March 30, 2000.

	1998	1999	Rates
5 month	305 (22%)	333 (25%)	\$8,600
MARE	51 (4%)	63 (5%)	\$9,200
Residential	9 (.7%)	5 (.4%)	\$10,000
Intra-agency	0	0	\$6,900
Enhanced	366 (72%)	358 (27%)	\$6,380
Sub-total (non-standard)	731 (53%)	759 (58%)	N/A
Standard	643 (47%)	552 (42%)	\$3,750
Grand Total	1374	1311	N/A

Source: Michigan Family Independence Agency, June 2000.

In 1999, Michigan Gov. John Engler awarded grants totaling \$540,619 to 22 Michigan adoption agencies, noting that the state set a new record for final adoptions. “Thanks to the hard work of the Family Independence Agency and its private contract agencies in Fiscal Year 1999, 2,417 state wards have permanent, loving homes,” said Governor Engler. “This is a record number of special needs children adopted in one year in Michigan, and I am proud of that accomplishment.”<sup>96</sup>

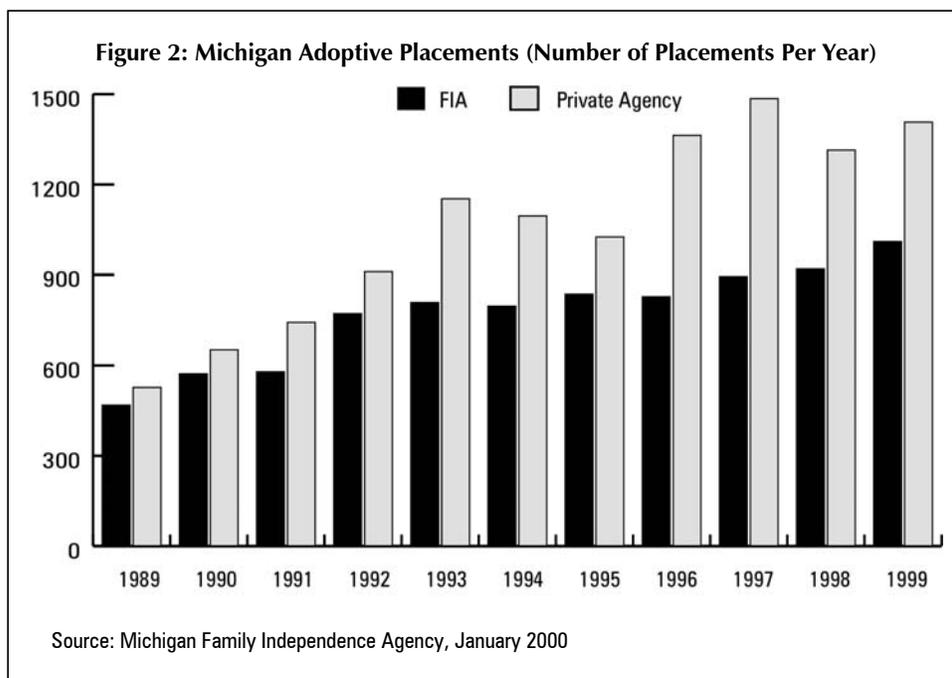


Table 7: Michigan Adoption: Then and Now		
Children	1991	1999

<sup>96</sup> “Engler Announces \$540,000 in Awards to Adoption Agencies,” press release, Michigan Government News, January 10, 2000.

Black children adopted	439	1,237
Disabled children	708	1,074
Children adopted	1,320	2,417
Children available for adoption	1,976	4,267

Source: Michigan Family Independence Agency, 2000.

### C. Key Lessons from Privatized Adoption Programs in Michigan and Kansas<sup>97</sup>

A number of key lessons emerge from the experiences with adoption-program privatization in Michigan and Kansas.

- **Impose time limits for adoption placement.** Michigan mandated a 12-month time limit before a permanency hearing determined either family reunification or adoption.
- **Structure the payment system** to reward the expeditious placement of children in appropriate, adoptive homes. Michigan adoption service providers are paid according to the difficulty of finding a child a home.
- **Tighten the definition of child abandonment** to allow abandoned children to be adopted quickly, rather than waiting indefinitely in foster care for a parent to return. In Michigan, a child is considered abandoned after 91 consecutive days without parental contact by an identified parent or 28 consecutive days by an unidentified parent.
- **Market available children.** Make information on children easily accessible. Private adoption providers in both Kansas and Michigan have successfully gotten the word out about children available for adoption by skillfully telling their stories through newspaper features, information booths at special events, and Internet sites featuring the children.
- **Establish performance-based contracts with clearly defined outcome goals.** Among these outcome goals, Kansas specified that: 55 percent of children shall be placed with adoptive families within 189 days of the receipt of the referral for adoption; 90 percent of adoptive placements shall be finalized within 12 months of the placement date; and 90 percent of adoptive placements shall continue to be intact 18 months following finalization.<sup>98</sup>

<sup>97</sup> Conna Craig, Ted Kulik, Tim James, and Shamin Nielsen, *Blueprint for the Privatization of Child Welfare* (Los Angeles: Reason Public Policy Institute, December 1998).

<sup>98</sup> For more examples of outcome standards see Craig, et al., *Blueprint for Child Welfare Privatization*.

**Part 6**

# Conclusion and Recommendations

In order to address both extremes of the pendulum—child deaths versus overzealous child removal—and stop the pendulum from swinging, states need to find ways to reduce the scope of their child-protection efforts, while prioritizing to devote more resources to serious cases of child abuse. Child-welfare privatization presents an opportunity to change the child-protection system to a competitive, outcome-oriented system that focuses on specific performance measures such as increasing adoptions, ensuring child safety, and reducing the time children spend in foster care. States can implement several reforms to improve their child-welfare systems and help ensure a successful child-welfare privatization program.

## A. Privatize Adoption Services First

Since adoption privatization has been the most successful and the least controversial component of child-welfare privatization, states should begin their child-welfare reform by privatizing the adoption process. Child-welfare agencies are often so busy investigating child abuse, placing children in foster care, and providing services to families that there are often not many resources left to announce the availability of children to prospective parents once they are freed for adoption. Private and nonprofit agencies can focus all of their attention on finding a child an adoptive family, especially when contracts are structured to reward the swift placement of children eligible for adoption.

## B. Reduce the Foster-care Population

Since privatization often is accompanied by increases in foster-care caseloads because government social workers have more time to investigate child-abuse reports, a successful child-welfare privatization program must focus on ways to reduce the foster-care population. Some strategies include:

### 1. Rank hotline calls

The investigation of child abuse should begin when a call is reported to the hotline. Hotlines should not be screened by low-level employees who simply pass on the information to CPS. Instead, well-trained employees should use a high-quality, risk-assessment methodology to rank hotline calls according to the severity of the child abuse or neglect. The lower-level calls could then be referred to a social worker who would offer voluntary services. All calls would still result in someone visiting the household, but law enforcement or CPS investigators could focus their attention on more serious cases of abuse. In Arizona, the

Family Builders pilot resulted in all hotline calls receiving a home visit, and out of 6,000 cases only 25 were referred back to CPS for investigation.

## ***2. Offer privatized voluntary services to low-risk cases***

The success of the Arizona Family Builders program illustrates that when families are not faced with the threat of having their children taken away, they will accept voluntary services to help them with specific problems. Program participants had very low levels of further substantiated incidents, and even families that were visited by caseworkers for the program but did not choose to participate had low levels of recidivism. Families that were referred to the Family Builders program were compared to a control group of families that had the same level of potential risk to their children but were investigated by the child-welfare agency. The results demonstrated that the Arizona Department of Children and Families was much more likely to remove the child from the home. For low-risk cases, privatized voluntary services offer a reliable way to provide families services while reducing the cost of foster care.

## ***3. Narrow child-abuse definitions***

Child-welfare legislation should be reformed to narrow the definition of when foster care is appropriate. Kansas found 1,800 children were in foster care for reasons other than abuse or neglect—reasons such as truancy or drug abuse. The legislature is evaluating whether to redefine foster-care legislation to focus on children who have been abused and neglected. In Kansas, a new classification for children in need of care would be created to give children services, rather than removing them from their parents. Every state should analyze its foster-care population and determine exactly why children end up in the state’s care. The criteria for removing children from their homes need to be limited to those children in danger from their parents. In some communities, it is considered neglect to leave a child unattended in the backyard. This sort of overly broad definition almost guarantees that resources will not follow the cases that warrant the most attention.

## ***4. Implement safety-focused family preservation programs***

Currently, family-preservation strategies and the criminalization of child abuse are viewed as mutually exclusive. Yet both share a common goal of keeping children safe and can help reduce the foster-care population. Family-preservation programs in Michigan and Kansas demonstrate that these programs can protect children and preserve families while reducing the cost of child-welfare services by reducing the need for foster-care services. Family-preservation programs should focus on child safety first, with strict rules for referring a family back to CPS if a child is in danger. Family-preservation performance measures need to focus on the number of substantiated child-abuse reports participating families have during the program, and at six, 12, and 24 months after program participation.

## ***5. Criminalize all serious cases of abuse***

Law-enforcement officials should investigate all serious child-abuse reports that involve sexual abuse or high or moderate reports of abuse and neglect. Child-protection laws should be structured to encourage the district attorney to file charges in criminal court rather than juvenile court. In Arkansas and Florida law enforcement officials have had to remove fewer children when they can remove the perpetrator from the home. This is especially true for the “boyfriend abuser” who has no relationship with the children other than

the connection with the mother. In some cases, states or programs have encouraged district attorneys to avoid the easy out of filing cases in juvenile court where they only have to show a preponderance of evidence rather than the higher standard of evidence required for criminal cases.

### **C. Offer One-stop Child Protection**

An ideal child-protection system would protect both the safety and rights of the child and the rights of the parent. While these two goals will always conflict with one another to some extent, a complete one-stop child protective service center would solve many of the inherent conflicts in the current child-protection system. Such a system would offer a child a safe environment and provide a child-protection team with experts in investigating child abuse as well as the necessary legal representation from the district attorney's office and the judicial system to ensure parents' due process. It would include child-welfare caseworkers, doctors and a medical team, state attorney representatives, a video team, a citizen's review board (including a doctor who would be present at medical exams to present a second opinion), and finally a judge, who would be available to issue court orders.<sup>99</sup> All of these parties would be at the same place at the same time for quick and complete child-abuse investigations. Such a system would save time and money and eliminate the problem of communication gaps between child-welfare agencies, the police, and the judicial system. This approach would reduce false reports of child abuse, allow for prompt prosecution of child abusers, protect the endangered child, and relieve child-welfare investigators of the fear of facing prosecution for leaving children in dangerous situations. Such a system would offer more accountability and checks and balances against any one agency abusing power at the expense of children or families.

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Child-welfare privatization can change the child-protection system to a competitive, outcome-oriented system that focuses on specific performance measures such as increasing adoptions, ensuring child safety, and reducing the time children spend in foster care.

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### **D. Recognize that the Juvenile Court Is the Gatekeeper of any Child-welfare System**

Reforming the juvenile-court system is the one missing component in most child-protection reforms. Foster-care privatization that sets time limits to move children towards reunification or to sever ties with biological parents will be ineffective if judges and the juvenile court system do not cooperate to meet these goals. State and local governments considering privatization should examine how their juvenile-court processes impact the child-welfare system to determine what legislative reforms are necessary to keep children safe while ensuring due process for families.

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<sup>99</sup> Brehm, "Families Need 1-Stop Protection."

## About the Author

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## Related RPPI Studies

*Child Protection at the Crossroads: Child Abuse, Child Protection, And Recommendations for Reform*, by Susan Orr, Policy Study No. 262, October 1999.

*Blueprint for Child Welfare Privatization*, by Conna Craig, Ted Kulik, Tim James, and Shamin Nielsen, Policy Study No. 248, November 1998.



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