



Children's Defense Fund

Testimony of The Children's Defense Fund

**Hearing on
Improving the Child Welfare System
Before the
Subcommittee on Income Security and Family Support
of the
Committee on Ways and Means
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Good morning. I am MaryLee Allen, Director of Child Welfare and Mental Health at the Children's Defense Fund. The Children's Defense Fund (CDF) thanks you for the invitation to testify today before the Subcommittee on Income Security and Family Support about "Improving the Child Welfare System."

The Children's Defense Fund's Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start*, and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective voice for all children in America who cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of poor and minority children and those with disabilities. CDF has never taken government funds.

The Children's Defense Fund has a long history of advocating for better outcomes for vulnerable children and their families. One of our earliest reports, *Children Without Homes: An Examination of Public Responsibility to Children in Out of Home Care*, helped to frame the improvements incorporated in the Adoption Assistance and Child Welfare Act of 1980. Since then, we have worked with the Subcommittee and other Members in Congress, as well as national, state and local organizations, to promote improvements in the core federal child welfare laws and to strengthen enforcement mechanisms so children will truly benefit from the services and protections already in place. CDF believes that keeping children safe and in permanent families must be everybody's business, but that Members of Congress and this Subcommittee particularly have a special role to play. You can provide the framework and a portion of the funding needed so state and local governments, private agencies, community and faith-based organizations, and youth, parents, extended families, and other child advocates can work together in states and communities to improve outcomes for children.

Looking Forward

It is good to be before the Subcommittee again, and I return with renewed optimism that with your help we will be able to make changes now that promote improved outcomes for children. You might ask what gives me hope as I look forward. Things are different than when we started more than 30 years ago, and I think that they provide both momentum for change and urgency to act. We cannot wait any longer. We have already let too many children fall through the cracks, and children continue to depend on all of us. We must ensure that we give the children now in foster care and entering the system what they need. What is different? There are at least five things that are different and should help us to move forward to improve America's child welfare system.

- 1) We know much more today about what works than we did in 1980, 1990, or even 2000. There are examples from around the country, some recently chronicled, that highlight promising programs and strategies to improve outcomes for children who have come to the attention of the child welfare system. We have also learned a lot more about how to use dollars more effectively to better match what children

need. States had the opportunity to use federal child welfare waivers to demonstrate the effectiveness of strategies to keep children permanently with relatives and to begin to demonstrate how up-front investments in services could help to reduce foster care caseloads and expenditures.

- 2) There is also greater consensus today than there has been in the past about a comprehensive vision for these children and the importance of federal funding streams supporting the directions necessary to make that vision a reality. Many of the national, state, and youth leaders who you heard from last year and will hear from today share the common goal of improved outcomes for children and youth – and many of us are working together to find the best way to achieve those outcomes on a national scale. It is a challenging task, but we have more opportunities to get it right together than we do when working apart.
- 3) Very importantly, we now have leadership and hear regularly from youth directly affected by the system. The voices of children, some now adults, remind us frequently of what improvements are needed in the child welfare system. These youth have lived with these problems. We must listen to them. It was their voices that resulted in the John H. Chaffee Foster Care Independent Living Program, signed into law in 1999. Last year you heard from them again asking you to help “improve the odds for the thousands of young people who will celebrate, or fear, their 18th birthday.” They recommended changes in financing to make permanency a priority for all youth.
- 4) There also are the voices of birth parents, grandparents, foster parents, and adoptive parents. CDF works closely with grandparents across the country who are raising children, some of them in the formal foster care system. They tell of the fear in their hearts when workers threaten to place their grandchildren in an adoptive home with a stranger, because they won’t commit on the spot to adopting the child. They cry about grandchildren they have “lost to the system” because they did not know that they had been placed in foster care.
- 5) Finally, the urgency for reform is greater than ever. Too many of our nation’s children, particularly those who live at the intersection of race and poverty, are at risk of being victims of what CDF calls the Cradle to Prison Pipeline® crisis. We must stop the funneling of tens of thousands of youth down life paths that often lead to arrest, conviction, incarceration and, in some cases, premature death. Inadequate health and mental health care, gaps in early childhood development, disparate educational opportunities, child abuse and neglect and an overloaded child welfare system all contribute to the likelihood of children entering the pipeline. There is much more attention to the racial inequities and disparities in the child welfare system today and exciting efforts underway to address them. Improvements in the child welfare system and in outcomes for children who come to its attention will help to reduce racial disproportionality and disparities and to dismantle the pipeline and substitute a pipeline to success for these children. We must act now.

Gains Made, But Challenges Remain

It has been almost three decades since Congress first offered some of the most vulnerable children in the country the promise of safety and permanence. Since then many children have benefited from requirements that children have case plans and get periodic reviews of their care, that reasonable efforts be made to prevent placement, to reunify children with their families or to find them new permanent families, and from federal support for family support and family preservation services and for adoption assistance payments. In some states children also benefited from the federal child welfare waivers. For many, however, the goals of safety, permanence and well-being are still elusive. Today millions of children urgently need help.

- A child is abused and neglected every 36 seconds, more than 2400 children each day, about 900,000 children a year. About four times as many children are victims of neglect as are victims of physical abuse.
- Nearly 40 percent of the children who are abused and neglected receive no services whatsoever from the child welfare system after the investigation.
- About 800,000 children are in foster care during the course of a year. The average stay is more than two years. One in four is in care for less than six months, but another one in four is there for more than three years.
- Black children and American Indian/Alaska Native children are in foster care at a rate that is double their representation in the general population.
- About half of the children in foster care who have siblings also in care are separated from at least one of their siblings.
- Many of the children in foster care are denied the basic education and early intervention and support they need. Yet foster children are four times more likely to have a disability than children who are not in foster care.
- 114,000 children are in care waiting for adoptive families. Many of these are legal orphans – their birth parents rights have been terminated, but they continue to wait without permanent families.
- Children often experience multiple caseworkers, as child welfare agencies struggle to find and keep quality staff. The average tenure of a child welfare worker is less than two years. High caseloads get in the way of working effectively with children and families.
- About 22,000 children age out of foster care each year without permanent families and face poverty, homelessness, limited education opportunities and the lack of health and mental health care. A study of foster care alumni found that, within the previous 12 months, more than half had at least one mental health problem, 20 percent had three or more, and one in four alumni experienced post-traumatic stress disorder.

The Bottom Line: Improving Outcomes for Children

CDF believes that we must take steps together now to improve the child welfare system and the odds for successful adulthoods for the children who are counted in the numbers above. We must improve outcomes for these children by:

- Preventing abuse and neglect and the reabuse of children.
- Keeping children safely with their families and out of foster care whenever possible.
- Reuniting children in foster care safely with their families.
- Finding children in foster care new permanent families and permanent family connections through adoption and permanent guardianship, when returning home is not possible.
- Providing children in permanent families with post-permanency supports.

Altering Federal Financing So It Supports Improved Outcomes for Children and Service Improvements

The Children's Defense Fund believes that to improve America's child welfare system in order to achieve better outcomes for children, we must seek changes at the federal level, especially changes in how child welfare services are funded. Financing changes are necessary if we are to garner the increased support that is needed to expand and extend strategies already in place to benefit many more children and families. They are essential, although not sufficient, for improving child outcomes.

This morning I want to highlight briefly the areas where we think changes are most needed, to describe the child welfare financing proposal developed by the Partnership to Protect Children and Strengthen Families, of which CDF is a part, and then to highlight the proposals in Chairman McDermott's Invest in KIDS Act that move us in these directions.

CDF believes that improved outcomes for children can be achieved by better directing federal dollars so they will help to increase the capacity of states to invest in:

- 1) **Prevention and early intervention:** Getting services to children and families early, before crises occur or intensify, helps to prevent child abuse and neglect and address other problems that may bring children into the child welfare system. These investments can help keep children out of costly foster care. Unfortunately federal dollars for many of these services are limited. Federal Title IV-E dollars generally cannot be used for prevention, and dollars once targeted for prevention and reunification now can be used for additional purposes. The Congress also recently reduced discretionary funding for the Promoting Safe and Stable Families Program by almost 30 percent as extra cuts were made to the Appropriations bill earlier in January.

- 2) **Specialized treatment and attention to basic needs:** Substance abuse and mental health problems of parents and domestic violence bring many children to the child welfare system, and often appropriate treatment and services are not available to divert them from the system or to return them home in a timely fashion. Better attention to children's basic needs for health and mental health care and education also can help children prepare to leave care. Gaps in access to health and mental health treatment for foster children, especially those with the most serious needs, are expected to grow significantly if the Centers for Medicare and Medicaid Case Management and Targeted Case Management Interim Final Rule is allowed to go into effect on March 3 as proposed. We urge you to help to halt its implementation.
- 3) **Enhanced permanency options and post-permanency services:** The Adoption and Safe Families Act recognized legal guardianship with relatives as a permanency option, but unlike adoption provided no financial assistance to relative caregivers. Enhanced federal support for children in foster care with legal guardians who can care for them permanently is extremely important as we work to achieve permanence for children. Changes also are needed so that resources for post-permanency services are available to keep children from returning to foster care, once they are returned home, adopted or placed permanently with kin.
- 4) **Improvements in the quality of the child welfare workforce:** In the end, positive experiences and outcomes for children and families are dependent on the quality of the workforce. This requires support for staff, supervisors and managers to help them accurately assess and provide what children and families need, the resources necessary to support their work with all the children and families they serve, and connections to the child and families and their communities.
- 5) **Increased accountability measures for improved child outcomes and system improvements:** To see improved outcomes for children, other changes first are needed that will help increase the likelihood of improved outcomes. Meaningful evaluations and regular reporting on the results of policies and programs can increase confidence that improved outcomes will be forthcoming. Reporting regularly on child outcomes is also important.

The Partnership to Protect Children and Strengthen Families

CDF believes that recommendations developed by the Partnership to Protect Children and Strengthen Families provide a comprehensive vision of federal child welfare financing improvements that are needed to enhance outcomes for children and families. I ask that a brief outline of the recommendations be included in the record and urge you to give them serious consideration. They were developed in 2007 by organizations representing public human service and child welfare directors, private child and family service agencies, a union representing child welfare workers, as well as CDF

and other advocates for children. We are pleased that since then 20 additional national organizations with long histories of working for change for children in or at risk of coming to the attention of the child welfare system have joined the Partnership.

The recommendations call for a full partnership between the federal government and the states with shared responsibility at multiple points in the system. In summary, the Partnership's recommendations for changes to the federal Title IV-E Program, which will require both federal and state investments, would:

- Promote investments in prevention and treatment services by redirecting for these purposes those funds that states now lose when they safely reduce their foster care caseloads and expenditures and the state funds that would no longer be needed for foster care if the federal government provided financial assistance for foster care for all children, as we propose.
- Guarantee children who are reunited with parents, placed permanently with relatives, or adopted from care, and older youth aging out of foster care, post-permanency services to prevent their return to foster care.
- Reach greater numbers of children, including those being cared for in foster care by grandparents and other relatives who are their legal guardians and want to care for them permanently, and American Indian children who have been denied access in the past to Title IV-E assistance.
- Ensure a competent, skilled and professional child welfare workforce by allowing federal Title IV-E training funds to be used for professional development related to safety, permanence and well-being for children and for all staff who work with children in the child welfare system.
- Increase federal reimbursement for quality casework services, and maintain general overhead and purely administrative expenditures at their current match rate.
- Allow states to reinvest penalties and disallowances back into the system for evaluations of promising approaches.
- Require states to report on how funds for children are being invested, the impact of these improvements on services, foster care placements, workforce improvements, and outcomes for children who are in or at risk of entering the child welfare system, and improve the federal Child and Family Service Reviews.

The Invest in KIDS Act

The Children's Defense Fund is very pleased that Chairman McDermott's Invest in KIDS Act, H.R. 5466, addresses a number of the areas for improvement that are identified in the Partnership's proposals. It joins in one bill a series of proposals that address child welfare financing, and other improvements for children at risk of placement or already in care. Most of the provisions in H.R. 5466 will help to increase state capacity in the ways described earlier in my testimony.

Enhancing Prevention and Specialized Treatment

The new Child and Family Services Program in H.R. 5466 (Sec. 101) will guarantee states that choose to take the option, funding for services to prevent and reduce abuse and neglect and to offer families the specialized treatment they need to better care for their children and keep them out of foster care. Prevention and specialized treatment are key to reducing the number of children in foster care and should be a major focus of this grant program. There are well-tested service approaches in both areas, and the opportunity for increased investment is exciting.

Getting help to children and families early, before crises occur or intensify, can help prevent child abuse. The long-term benefits of investments in prevention have recently been documented by Prevent Child Abuse America. That analysis estimates that in 2007 the total annual direct and indirect costs of child abuse in the United State was nearly \$104 billion. Often preventive services can also help avoid the need for children to enter foster care. The fact that one out of four children in foster care is there less than six months suggests that perhaps steps could be taken to prevent placement in the first instance for many of these children.

The new Family Connection Grants (Sec. 445) will also help keep children from needing such care, particularly if funding is guaranteed, similar to the guaranteed funding for the Promoting Safe and Stable Families and Independent Living programs. Kinship Navigator programs, one of the eligible activities under the Family Connections Grants, are already in place in Connecticut, Ohio, New Jersey, New York, Washington and other states. They help link relative caregivers to the supports for which their children are already eligible, thereby keeping them out of foster care. Family group decision-making meetings, which can be funded under the Family Connection Grants, also can be used to prevent children from entering care.

In addition to increasing opportunities for comprehensive family-based substance abuse treatment programs and other specialized treatment, H.R. 5466 also recognizes how critical it is to improve health and educational opportunities for children in foster care. The Health Oversight and Coordination Plan (Sec. 421) will help establish procedures to ensure that children are afforded their right to all medically necessary care, including mental health care, under the Early Periodic Screening Diagnostic and Treatment benefit in Medicaid. Plans for how best to share medical information about children in foster care with those who need it and to monitor prescription medications (particularly psychotropic medications that must be used only sparingly and in extreme circumstances), will also be helpful. CDF recommends that, in addition to these provisions, the Subcommittee work with the Health Subcommittee of the Energy and Commerce Committee to move forward H.R. 1376, which would ensure Medicaid coverage until 21 for youth leaving foster care at age 18 or older.

Building on earlier testimony about their education problems from youths aging out of foster care, H.R. 5466 (Sec. 431) addresses the educational needs of children in foster care by requiring a plan for ensuring the educational stability of the child while in

foster care and providing funding for transportation for a child in foster care to his school of origin. These provisions complement others being sought in the reauthorization of the McKinney Vento Homeless Assistance Act, which would extend the protections now in place for the education of homeless children to youth in out-of-home care. They also build upon important state activity underway in Arizona, California and other states.

H.R. 5466 (Sec. 201 (c)) also recognizes, albeit in a different way than the Partnership proposal, the importance of promoting and distinguishing from the traditional administrative overhead child placement activities that are reimbursable under Title IV-E administrative costs, and are key to assessing and responding to children's needs.

Promoting New Permanency Options and Post-permanency Services

Of the about 6 million children living in households headed by relatives, about 2.5 million of them live there with neither parent present. About one in five of these children lives in poverty. A review of the research, prepared by the Center for Law and Social Policy, documents that children living with kin in foster care fare as well as those placed in non-kin foster homes. The Invest in KIDS Act includes several provisions that are directly responsive to the needs of children being raised in foster care by relatives, many of them similar to those in H.R. 2188, the bipartisan Kinship Caregiver Support Act.

Currently 39 states and the District of Columbia provide subsidized guardianship payments to relatives who have legal custody and care for the children in foster care. The National Conference of State Legislatures reports that in 2006, as in previous years, kinship care remained a high legislative priority. Ten states took action that year to create or expand supports for relative caregivers and/or to identify relatives as placement resources for children in the child welfare system. A requirement to notify relatives when a child is about to be placed in foster care can help children remain with extended family and out of foster care; we urge the Subcommittee to add a notification requirement to H.R. 5466 as it moves forward.

Recognizing the importance of permanence for children living with kin in foster care, the Kinship Guardianship Assistance Program in H.R. 5466 would give states the option to offer relatives caring for children in foster care, who have legal guardianship of the child and want to care for them permanently, assistance comparable to that offered to children who are adopted. Both adoption and legal guardianship were specified under the Adoption and Safe Families Act as permanency options for children, but ongoing financial assistance is offered to those who adopt children from foster care but not to relatives who assume legal guardianship of children they have cared for in foster care. H.R. 5466 (Sec. 202) also recognizes that children living safely with kin should not be denied the opportunity of such assistance because they cannot qualify for the Title IV-E foster care program. It would give states the option to establish different licensing standards for children in kin and non-kin foster homes provided that core protections are provided to both groups. The bill also provides incentives to states to help children leave foster care to live permanently with kin by adding guardianship placements to the Adoption Incentive Program (Sec. 414 (d)).

H.R. 5466 (Sec. 201 (e)) also extends access to IV-E Foster Care and Adoption Assistance payments directly to children in Indian tribes, provisions that will help ensure long overdue protections for many of these children, including efforts to promote permanence for the children in appropriate settings.

In addition to helping to keep children with extended family, H.R. 5466 also requires states to make reasonable efforts to keep siblings together, unless to do so would be contrary to their best interest (Sec. 415.) Research has documented that the sibling bond is one of the most important and long-lasting bonds created in our lives, and it may be especially important for children in foster care who often do not have other connections to family members. A survey by the National Resource Center for Family-Centered Practice and Permanency Planning identified that more than half the states had policies in place that require agencies to make efforts to ensure that siblings are placed together and even more states promoted sibling visitation. Based on data from several states with large foster care populations, however, it is estimated that more than half of the children who have siblings in care are not placed with them. Some states recently strengthened their laws to protect siblings. Iowa, for example, just last year required the state to make reasonable efforts to place siblings together, if in the best interests of the child, and to provide sibling communication and visitation if it is not possible to keep them together in the same home. The Iowa law also requires the state to inform foster parents of the importance of sibling bonds.

The Family Connection Grants in H.R. 5466 (Sec. 445) encourage states to use intensive family-finding efforts to find permanent family connections for youth before they leave care. Preliminary results from three states where Family Finding, one of the processes for locating family members, was first used demonstrate that foster youth who connected with relatives run away less, do better in school, and are less likely to be hospitalized for emotional breakdowns.

The Invest in KIDS Act provision that would allow states to receive continuing federal support when they extend foster care until age 21 for youth who otherwise would age out at 18 should help ensure that permanent family connections are made before a child leaves care. Research by the Chapin Hall Center for Children at the University of Chicago has documented the increased benefits to young people who stay in care longer, and reinforced the importance of helping states to extend care for these youth. CDF believes that additional steps are needed though to ensure that children who receive federal support to remain in care longer, we hope *through* 21, will actually benefit. Agencies, courts and youth themselves should be required to assume responsibilities during this period to promote permanent connections and links to school, work or other appropriate services. States that opt to provide extended care should also be required to at least offer it to all youth who are preparing to exit the system.

Improving the Child Welfare Workforce

H.R. 5466 recognizes how important the workforce is to ensuring improvements in outcomes for children. We can pass the best laws but without a quality workforce, children will not benefit. CDF and Children's Rights have been working with a Child Welfare Workforce Improvement Policy Group to identify the core components of an effective child welfare workforce and suggest policy improvements, some similar to those in the bill. There is good work going on in a number of states that reinforce the importance of looking comprehensively at workforce improvements. In eight states universities are completing work under federal Recruitment and Retention Grants. Maryland has also recently passed legislation to strengthen its child welfare workforce. The provisions in H.R. 5466 will reinforce these efforts.

H.R. 5466 makes important improvements in the Title IV-E Training Program that build on those in H.R. 2314, introduced in this Congress and previously by Ranking Member Weller, which make clear that staff of private agencies contracting with the public agency for the care of children could be trained with IV-E funds. H.R. 5466 also extends the training to other staff whose quality attention and skill are critical to the well-being of children, including court staff and staff of other agencies serving the children, and makes clear that all training related to safety and permanence is eligible for reimbursement under Title IV-E. It should be further clarified that IV-E funds may be used for staff working with any of the children in foster care, not just those who are eligible for Title IV-E, especially since states are held accountable under their Title IV-E state plans for improved outcomes for all children in care, not just IV-E eligible children. Funding in H.R. 5466 is also provided for other workforce improvements that are needed to ease caseloads for staff and supervisors, to increase the work readiness of staff, and to promote enhanced recruitment and retention activities.

Enhancing Accountability for Improved Outcomes for Children

H.R. 5466 in many of its provisions requires an assurance that services and activities that are funded will be promising approaches with evidence of results. In a number of provisions, annual reporting is required to assess the effects of the new funds. To help ensure improved outcomes, it is important to monitor carefully whether procedures are being implemented that increase the likelihood of better child outcomes.

This is the time to look forward and make significant changes that will help the generation of children currently in the child welfare system and those that will be coming to the system in the days, and weeks, and months ahead. The Partnership to Protect Children and Strengthen Families Recommendations and the Invest in KIDS Act highlight the areas where change is needed if we are to improve outcomes for children and youth. There is growing consensus about the goals and the vision. We must seize the opportunity to achieve that vision for children. The Children's Defense Fund is eager to work with you in this Congress and the next to put in place the improvements in the child welfare systems that are needed to improve outcomes for children. Thank you.