

WHAT ARE THE STRATEGIES, IF ANY, THAT STATES ACROSS THE NATION EMPLOY WITH THEIR RESPECTIVE FAMILY COURTS TO WORK COLLABORATIVELY ON BEHALF OF CHILDREN IN CARE?

STATE SUMMARY: DELAWARE

State CFSR

The statewide CASA Senior Program Coordinator who also manages the Court Improvement Project (CIP) was the only court representative who helped prepare for the CFSR. She was assigned by the Chief Judge to work with the agency. She was part of a small focus group that worked on the agency's self-assessment, interviewed as a stakeholder, and served as a case reviewer.

An agency representative commented that the CASA director was an integral part of the CFSR, but decision-making authority for the court rests with the judges. In retrospect, it would have been helpful to have judicial officers involved in the review from the beginning. However, timing and being the first state reviewed inhibited participation from more court representatives. The agency, though, was very open to input on the self-assessment, and seemed to accurately reflect what the stakeholders had to say. Agency staff was very accommodating during the case reviews, and the results were shared with participants. Also, it would have been helpful to integrate CIP plan with the CFSR standards.

The 13 state CFSR team members included seven agency representatives, and six other stakeholders, including the CASA Senior Program Coordinator/CIP manager, as a representative of the court. The CASA Senior Program Coordinator/CIP manager also served as a reviewer.

The on-site review took place in March 2001. This was the very first on-site review the feds did. As part of the stakeholder interview process, the feds met with a family court judge in each county, the Chief Judge of Family Court, and other CASA personnel, including staff and volunteers.

The PIP was approved in January 2002. Due to the short time given to draft the PIP (30 days) and the limited experience, there were no formal drafting meetings between agency and court representatives. There was, though, a workgroup, that included the CASA Senior Program Coordinator/CIP manager, as well as members of a local child advocacy group that looked at the issue of the length of time to achieve adoption, and established recommendations for system changes. These recommendations were incorporated into the PIP.

Collaboration Following the Release of the PIP

The agency has had almost two years to work on the PIP since it was approved. Their collaborations with the court has been very focused and specific, and only targeted towards a few areas of the PIP, including shortening the time between filing for TPR and a court hearing, and scheduling. Appendix A details the specific areas of the PIP that call for court and agency collaboration. While Family Court wants to work with the agency on improving services for

children, their workload, priorities, and due process requirements often conflict. There is no financial incentive or penalties related to the CFSR process for the Court.

Ongoing Collaboration

As part of CIP, the court has sponsored training for judges, child welfare attorneys, CASA staff and agency representatives. The CASA Senior Program Coordinator/CIP Manager has been invited to an upcoming meeting on the PIP with the agency, other stakeholders, and the HHS regional administrator. In addition, the agency and court hold a variety of regular meetings to solve problems and address issues of mutual concern.

Legislation: The PIP called for pursuing legislation that would allow DFS to petition Family Court for orders compelling cooperation in treatment services where significant risk is present. Discussions between the agency and Court were helpful, but ultimately, the decision was made not to seek legislative change in this area. Other recent legislative changes giving more authority to the Division, specifically the Child Protection Registry, have been controversial and it was unlikely that the agency would be able to get sufficient legislative support.

Committees: The court and agency has formed a DFS/Family Court Working Committee that meets on a quarterly basis. The last meeting was in the end of September. This committee focuses on resolving statewide systemic concerns, such as shortening the time between filing for TPR and a court hearing.

The Court holds quarterly stakeholders meetings in each county that include court and agency representation, and attorneys for agency, parents, the Office of the Child Advocate, and CASA. Mostly local, but some statewide issues as well are addressed at these meetings. For example, scheduling hurdles, and making good use of judges' time are ongoing statewide issues. The Chief Judge of the Family Court meets regularly with the Secretary for the Department of Services for Children, Youth, and Families.

Representation of parents. Until recently, parents were not provided with attorneys until the first hearing after a TPR petition was filed. This was primarily due to fiscal constraints. Now, though, all three counties in Delaware assign contract attorneys for parents at the Preliminary Protective hearing, therefore better protecting parents and promoting permanency for children. Contracts for parents' attorneys are paid by the Administrative Office of the Court.

Expedited review of appeals. The court and agency were both involved in researching existing processes to request expedited review of appeals by the state Supreme Court. Now, all appeals are completed in a timely fashion.

Conclusion

The court and agency have an amicable relationship. One problem the state had from the start is that the CFSR was launched simultaneously with the CIP. The agency wants to be successful implementing the PIP and Family Court wants to be successful implementing the CIP. There has been no clear connection between the two plans. There is no requirement that the agency be brought to the CIP table and be an equal partner, and vice versa. There is some recent progress

to address this problem. The strategic plan included with the most recent CIP application calls for the establishment of an Advisory Group, which is to include agency representatives. The strategic plan also calls for CIP to address court-related issues identified in the CFSR.

APPENDIX A: DELAWARE'S PIP EXTRACT

Section II:

Outcome Not in Substantial Conformity: Safety Outcome #1: Children are, first and foremost, protected from abuse and neglect

1. Goals(s) including Measure/Percent of Improvement

Delaware currently meets the national standards in repeat maltreatment and child abuse/neglect in foster care. 86.49% of cases reviewed were in substantial conformity. By June, 2002, 90% of all cases reviewed for this outcome through our quality assurance review process will be in substantial conformity, a 3.51% improvement. By September, 2003, 95% of cases reviewed for this outcome will be in substantial conformity, an 8.51% improvement. Listed below are the action steps and implementation dates for improvement in this outcome.

Action: Pursue legislation to allow DFS to petition family court for court orders compelling cooperation in treatment services where significant risk is present.

Implementation date: DFS will draft legislation and begin gathering legislative support in January, 2002 for possible passage in June, 2002. Policy and training will follow with full implementation by January, 2003. Possible barrier to implementation is the lack of legislative support to enact this legislation. The Department is unable to ensure that legislation is approved but will work diligently in this area.

- i. Lead Person Responsible: Carlyse Giddins, Director, DFS
- ii. Geographic Areas of State Covered: Because the Department of Services for Children, Youth and Their Families is state administered and supervised and given the size of the State of Delaware, the improvement plan will be implemented on a statewide basis
- iii. Technical Assistance Resources Needed: The Division of Family Services intends to discuss needed actions with the National Resource Center for Legal and Judicial Issues to determine if they can assist in this matter.

Our ability to drastically improve Court processes is very limited. The Department depends on Family Court to implement the requirements of ASFA. While we enjoy a cooperative relationship with the Court, we are a litigant in all Court actions. While the Court focuses on best interests of children, they have not received any additional funding to implement ASFA or to reduce the backlog in Court created by ASFA. Despite this, the Court has participated fully in the CFSR process. Lynn Shreve, the CASA director, was a Delaware Team Member in the on-site review and has participated fully in the development of the Program Improvement Plan. The Court Improvement Project was not fully implemented in this State until 4/01. While we have seen some improvements in timeliness to achieving permanency in the county that first implemented CIP, it is too soon to determine if full implementation in the other counties will result in faster decisions of permanency. Our collaborative efforts with the Court include:

- We have initiated discussions with the Court and have developed a DFS/Family Court Working Committee that will meet on a regular basis to resolve statewide systemic

- issues. To date, we have focused on the process once a Termination of Parental Rights (TPR) Petition has been filed and identified ways that we can reduce the time frames between filing and court hearing. Currently, once a TPR petition has been filed, a separate notification must take place, which means that the first hearing on any TPR petition is delayed for up to 3 months. Changing this process would require legislative change of their entire process so that from removal, parents are noticed of both custody and TPR proceedings. At our 12/2002 meeting, we will be reviewing the current backlog of TPRs to determine the source of the backlog and may be developing a request for technical assistance from the National Resource Center.
- The appointment of attorneys for parents currently occurs during the first hearing after the TPR petition is filed. The State recognizes that it would better protect the rights of parents and promote timely permanence for children if that appointment could take place at the Adjudicatory Hearing. However, fiscal constraints for Family Court have made this impossible. In one of Delaware's three counties, this regularly occurs. Another county should fully implement this process by 11/02. A budget initiative for the third county is in place and if approved, will be effective by 12/03. DFS will support this initiative but is unable to control the prioritization or funding of this initiative.

Without improvements in the Family Court process, Delaware will struggle to meet the national standard of 32% of adoptions occurring within 24 months of removal. With a 12 month requirement for TPR based on Failure to Plan and a court process taking at least 6 months, it is likely that only those young children being adopted by their foster parent will exit within 24 months. We will continue to work collaboratively with Family Court, will actively pursue legislative change and will support fiscal initiatives for Family Court.

Action: Research existing processes to request expedited review of appeals by Delaware Supreme Court and implement available options.

Implementation Date: 7/03

- i. Lead Person Responsible: Candace Charkow, OCS Administrator, DFS; Keith Zirkle, DFS Program Support and Resource Administrator
- ii. Geographic Areas of State Covered: Because the Department of Services for Children, Youth and Their Families is state administered and supervised and given the size of the State of Delaware, the improvement plan will be implemented on a statewide basis
- iii. Technical Assistance Resources Needed: None