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PROTECTING CHILDREN BY STRENGTHENING FAMILIES: A Family Impact Assessment of Two Child Welfare Bills

Summary

This issue of the *Family Policy Report* focuses on two pending bills that propose major changes in the federal laws that govern child welfare, foster care, and adoption services — the *Child Welfare and Preventive Services Act* (S. 4), sponsored by Sen. Lloyd Bentsen (D-TX), and the *Family Preservation Act* (H.R. 2571), sponsored by Rep. Thomas Downey (D-NY). For too long, federal fiscal incentives have focused on placing children in out-of-home care instead of assisting families in fulfilling their responsibilities to their children. These bills make a significant positive policy statement about families and children — namely, that at-risk families should be strengthened and preserved by making services available that help keep families together. Both bills reinforce their stated intent by directing increased federal resources toward needed family support and family preservation services. Within these broad parameters states are given considerable flexibility as to how to spend the new monies.

Since the last major reform of federal child welfare laws in 1980, much has been learned about how to successfully empower, strengthen, and improve the functioning of even the most at-risk families so that out-of-home placement of a child is prevented. Both bills reflect much of this new knowledge.

It is important to remember, however, that states and localities have the primary responsibility for providing child welfare and foster care services; therefore, the way in which these jurisdictions implement these reforms will determine the extent to which the legislative goals are achieved.

The first half of this report begins with a brief summary of the family issues in child welfare reform, reviews the policy background, and then summarizes the proposed legislation. The second half presents an analysis of the bills from COFO's family perspective (see page six).

In COFO's judgment, these comprehensive and ambitious proposals provide states and local governments and the non-profit sector with a tremendous opportunity to reorient the child welfare system in the direction of helping children by strengthening families, yet many of the changes in policy and practice that will be required to make this vision a reality are left to the states to address. In its assessment, COFO notes several omissions in the bills as well as areas that need special attention in their implementation. For example, while parents are provided with increased services, they are not given any additional protections or rights in these bills — nor are consumer parents and extended relatives given any opportunities to be included in policy planning and implementation. Unfortunately, there is little attention given to the critical issue of staff training and support.

Family Issues Related to Child Welfare Reform

The patchwork of child welfare policies and services forms a intergovernmental system that has a profound impact upon families and children, especially those most economically and socially vulnerable in our society. The child welfare system was designed to protect children when their safety and well-being was seriously threatened by their parents' failure to provide adequate care. The traditional response in these situations was to remove the children from their homes and place them in foster care, yet foster care is a drastic intervention in families' lives: parents' rights are abro-

Note to Subscribers

Beginning with the next issue, COFO's *Family Policy Report* will appear three times a year (Fall, Winter, and Spring) rather than four in order to give you more in-depth and comprehensive family impact assessments of important pending legislation. This new schedule will also conform better to Congressional sessions.

gated and children often suffer even more from the separation than from their parents' neglect. Thus, current reform efforts focus on trying to protect the child while *also* preserving the family.

While in certain emergency and crisis situations foster care is a necessary and appropriate intervention, most experts now agree that out-of-home care should be considered as a last resort, not a first response to troubled families.

◆ **How do families become involved with the child welfare system?**

The public foster care system is designed to provide temporary substitute care for children whose parents' condition or behavior means that they are not discharging their basic parental responsibilities. Most children enter foster care through a court proceeding which results from a child protective services worker's investigation of a complaint of abuse or neglect. Some of these complaints turn out to be unfounded. Many situations of child abuse and neglect are not reported. If the court decides that a child cannot remain safely at home, custody of the child is given to a child welfare agency which then arranges the child's placement. Parents' incarceration, serious illness, or death can also result in placement. In some communities, up to a third of the children in out-of-home placement are there as a result of their families' homelessness. Approximately 3% of the children who enter foster care are voluntarily placed by their parents through a written agreement with the child welfare agency, without a court proceeding.

Although the popular assumption is that most children enter foster care because of a parent's physical abuse, several studies have cited that caseworkers are more likely to refer children to out-of-home care who suffer from "social deprivation" and neglect rather than physical abuse or injury. Often this neglect is a direct result of the family's poverty.

A recent survey of children entering foster care over a three-month period in the Washington metropolitan area found that parents' lack of parenting skills was the number one reason for children entering the foster care system. It further stated that the lack of parenting skills was often related to other problems, such as few resources and/or parental substance abuse.

◆ **What are the effects of foster care on families and children?**

Many children in foster care suffer psychologically as a consequence of being separated from their parents, even though they may have had some bad experiences with them. Many feel sad, anxious, and guilty; they are confused about their identity, torn between their biological families and foster families, and exhibit symptoms of distress such as sleeping problems, difficulty at school, and problems in controlling their behavior.

Children who experience inappropriate or poor quality foster care and/or a number of different foster care placements can suffer significant and sustained psychological harm.

Although much of the research on foster care has focused on the child, several studies show that foster care also negatively affects parents, siblings, and other family members. Many parents whose child has been removed experience depression, marital problems, guilt, anger, worry, humiliation, and despair. Many feel that they have failed as parents. This is exacerbated by their essential powerlessness: most decisions about their children are now being made by a host of strangers — caseworkers, lawyers, judges, and medical and mental health professionals.

It is also important to recognize that foster care can benefit families and children. Many children living with caring and competent foster families do quite well, and biological parents may benefit from the needed respite from parenting duties as well as from opportunities for substance abuse treatment or other services.

◆ **What can be done to support families and prevent out-of-home placements?**

Increasingly, public and nonprofit agencies are establishing intensive family-based crisis intervention services that can protect children while still preserving the family. Known as family preservation programs, these services are characterized by their focus on the family unit, their flexible response to families' needs, small caseloads for workers, intensive services of short duration (4-12 weeks), round-the-clock accessibility, and home-based service delivery. Therapists/counselors are specially trained. The goal of family preservation is to strengthen the family by improving problem-solving and parenting skills and helping families obtain other necessary community resources and services. Often family preservation services make placement unnecessary.

◆ **How can foster care help families become reunited?**

When an out-of-home placement is necessary, it should be temporary and the duration of separation minimized. Once the parents' condition changes for the better or their behavior improves sufficiently, the child should be reunited with his or her family. Too often, however, little is done to help the family regain their child.

Studies show that successful reunification is facilitated when parents receive appropriate services — before and after a child is returned home — and when parents are encouraged and helped to visit their children in foster care frequently. In addition, demonstration programs that train foster parents to work cooperatively with the biological parents (rather than compete with them) also appear to help promote reunification. Such efforts decrease the length of the foster care stay and strengthen the family (Minuchin, 1991).

During the period of the foster care placement, it is also important that the foster family receive the necessary training, support, and information to care adequately for the child.

◆ **How can a permanent and stable home for the child be assured if reunification is not possible?**

When it becomes clear that reunification of parents and children is not possible, an alternative permanent home for the child such as an adoptive family or a long-term foster care placement is usually required. If, for example, the child has been in care for a year or more, and the parents have not demonstrated their capacity to resume care of their child despite the child welfare agency's "reasonable efforts" (as defined by law) to help the family, the agency is supposed to pursue a permanency plan for the child. This usually means petitioning the court to terminate parental rights and finding an adoptive home. The termination of parental rights is acknowledged to be the most drastic intervention and in most cases should be done only after exhaustive exploration of the alternatives.

It is important to realize that if an adoptive placement is necessary, the biological family will need help in the process of severing their ties to their child.

Once a child is placed in an adoptive family, follow-up services are needed to help avoid a breakdown of the adoption. Adoptive parents may need help in bonding and caring for children who are often scarred by several experiences of loss.

Policy Background

The myriad of federal, state, and local laws, regulations, administrative procedures, practices, and court rulings related to child welfare loosely connect to form one of the nation's most complex domestic policies. Services resulting from these policies encompass a broad range of activities and are provided by a network of voluntary nonprofit and public sector agencies at the state and community level. The services provided may be supportive of families (e.g., respite care, day care, parent education and parent support groups), supplementary (e.g., financial assistance, housing, food, clothing), or substitutive (e.g., family foster care, group homes, residential care). Adoption services are also provided to help families adopt children, particularly those with special needs.

The current child welfare system has been described as being under siege. Most analysts agree that the system is underfunded, understaffed, and too overwhelmed by a multitude of factors and pressures to serve the increasing numbers of at-risk families and children. Other observers add that the system misdirects the dollars that are available to it — relying heavily on out-of-home care instead of devoting resources to supporting families and preventing family break-up. All agree that the system has become unable to respond to families and children except those in the most severe crisis (Kamerman and Kahn, 1989).

Between July 1985 and June 1990, the foster care population increased by nearly 50 percent. Among the most important social trends of the last five years that have contributed to the overburdening of the system are the escalating number of child abuse and neglect reports, the increase in parental substance abuse, especially among mothers in the inner cities, the AIDS epidemic, and the increasing numbers of homeless families. In addition, a rising number of single-parents are finding it difficult to care adequately for their children because they live in poverty.

Current Policy Framework

Historically, states have had the primary responsibility for providing and funding child welfare services, and the child welfare system is essentially governed by the requirements of state family law. Until recently, the federal government played a relatively minor role. This situation changed in 1980, however, when Congress overhauled the federal laws governing child welfare with the passage of P.L. 96-272, the *Child Welfare and Adoption Assistance Act*, and created new federal requirements for states.

The 1980 reform was based on the philosophy of permanency planning — that all children have the right to a permanent and stable home. The goals, therefore, of P.L. 96-272 were to reunify children in foster care with their families, to free children for adoption if reunification was not feasible, and to prevent the unnecessary placement of children in foster care. Another major aspect of the bill required that child welfare agencies make "reasonable efforts" to prevent the need for a foster care placement. However, the federal government never provided specific guidance to state and local child welfare agencies in how to meet this requirement.

The five primary federal funding sources for child welfare and foster care services are contained in the Social Security Act: the Title IV-B Child Welfare Services program, the Title IV-E Foster Care program, the Adoption Assistance program, the Independent Living program, and the Title XX/Social Services Block Grant. A small, separately authorized, discretionary grant program, the Child Abuse and Protection Act (CAPTA), provides small grants to states to fund child protective services. States, however, provide nearly 60% of child welfare expenditures.

Recent Federal Responses

Family and child advocates and policymakers at all levels agree that the lauded goals of P.L. 96-272 have for the most part not been achieved for the following reasons: 1) the desired redirection of resources towards prevention did not take place due largely to stagnant federal funding under both Title IV-B and Title XX, 2) the noncompliance of states with several key aspects of the law, and 3) the new demands on the service system caused by the rising rates of parental substance abuse, homelessness, poverty, AIDS, and other social problems. These interrelated problems have overwhelmed the

What Criteria Should Be Used to Implement a Family Perspective?

COFO recommends that the following six principles be used as family criteria to guide policymaking (for more information see the first issue of the *Family Policy Report*):

1. **Family Support and Responsibilities:** Policies and programs should aim to support and supplement family functioning and provide substitute services only as a last resort.
2. **Family Membership and Stability:** Whenever possible, policies and programs should encourage and reinforce family, parental, and marital commitment and stability, especially when children are involved.
3. **Family Involvement and Interdependence:** Policies and programs must recognize the strength and persistence of family ties, even when they are problematic.
4. **Family Partnership and Empowerment:** Policies and programs must consider families as partners when providing services to individuals.
5. **Family Diversity:** Families come in many forms and configurations, and policies and programs must take into account their different effects on different types of families. Policies and programs must recognize the diversity of family life, neither discriminating against nor penalizing families solely for reasons of structure, roles, cultural values, or life stage.
6. **Targeting Vulnerable Families:** Families in greatest economic and social need and those judged to be most vulnerable to breakdown should have the first priority in government policies and programs.

the child welfare system, making it unable to meet the needs of vulnerable children and families.

Since the late 1980s, several national organizations and coalitions have issued proposals that call for a restructuring of the child welfare system. Each presents a framework for a new and broader vision of an intergovernmental system including a range — or

continuum — of comprehensive, community-based, family-centered services for families with children.

In 1990, Congress responded with two major pieces of legislation that were intended to ameliorate problems facing existing child welfare programs and to provide states with the necessary resources to create or enhance a range of services for families and children. Rep. Thomas Downey (D-NY), Acting Chair of the House Ways and Means Subcommittee on Human Resources, led the way with introduction of *The Family Preservation Act of 1990* (H.R. 5020). It was the result of a bipartisan collaborative effort between Reps. Downey, George Miller (D-CA), Harold Ford (D-TN), Robert Matsui (D-CA), Mike Andrews (D-TX), and Nancy Johnson (R-CT). The bill proposed converting Title IV-B into a capped entitlement, expanding its funding, and requiring states to provide a range of services to help preserve and strengthen families, especially those affected by substance abuse.

Later in 1990, Senate Finance Committee Chair Lloyd Bentsen (D-TX) introduced the *Child Welfare and Preventive Services Act* (S. 3174). It included several provisions to restructure Title IV-B. It also included provisions to expand Medicaid for low-income children.

Both bills have been re-introduced in the 102nd Congress. *The Child Welfare and Preventive Services Act* (S. 4) was introduced with relatively minor changes by Sen. Bentsen on January 14, 1991. As signified by its low filing number, S. 4 is a priority for the Senate's Democratic leadership. *The Family Preservation Act of 1991* (H.R. 2571) was re-introduced on June 6, 1991 by Rep. Downey. Hearings on the bill's provisions were held June 11 and 12. Action on both bills is expected before Congress adjourns in October.

Legislative Summaries of S. 4 and H.R. 2571

THE CHILD WELFARE AND PREVENTIVE SERVICES ACT (S. 4)

S. 4 proposes "to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, and to provide improved delivery of health care services to low-income children." The bill is divided into four titles. This family impact assessment focuses primarily on Title I.

Title I — Child Welfare and Family Support Services (Sec. 101) Proposes that a new entitlement be created under Title IV-B of the Social Security Act to allow states to fund innovative child welfare and family support services in order to strengthen families and avoid the placement of children into foster care or to avoid the breakdown of adoptive placements. Such services could include intensive family preservation services, reunification services, respite care, and family support services, including those designed to improve parenting skills. HHS is required to conduct evalu-

ations of these programs. The bill authorizes that an additional \$1.6 billion be allocated over five years to fund these services. A separate authorization of \$8 million per year is set aside for evaluation of these programs.

Additional provisions of Title I are:

- Funding for up to 15 state child welfare demonstration projects (Sec. 102) that allow states and localities to use Title IV-E to improve the coordination and integration of services for families and children (\$45 million in entitlement funding). States must evaluate these projects.
- Allows up to 10 states to apply for grants in which Title IV-B and Title IV-E funds could be commingled in order to expand resources for innovative services that prevent family dissolution, ensure timely reunification of families, ensure prompt permanent placement of abandoned children and other children in care, and promote community-based family support. Participating states would receive a 20% increase in their Title IV-B allocation. The Secretary of Health and Human Services would contract for the evaluation of these projects.
- Enhanced federal matching funds to states for the costs of designing, developing, and installing a comprehensive data information and management system (Sec. 107).
- Creation of a nine-member advisory committee (Sec. 104) to study and make recommendations regarding the "reasonable efforts" requirements under P.L. 96-272.
- Improvements to Title IV-E Independent Living program (Sec. 108).
- Current law is amended to require that child welfare traineeships are only available to those who are employed or preparing for employment in state and local child welfare programs (Sec. 110).

Title II would amend both the Title IV-B Child Welfare Services and Medicaid programs to provide an option to states to develop comprehensive substance abuse treatment programs for pregnant women and other caregiving parents and their children. The bill proposes \$475 million in entitlement matching funds to states over five years to pay for these services. (See *Family Policy Report*, Vol. 1:3 for a family impact assessment of other pending substance abuse treatment legislation.) Title III would establish several new Medicaid options for states in order to provide greater health care coverage to poor children. Title IV would allow a tax deduction of up to \$3,000 to help families with the one-time adoption expenses of a special needs child.

THE FAMILY PRESERVATION ACT OF 1991 (H.R. 2571)

The Family Preservation Act of 1991 proposes to "promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services." The bill is divided into six titles. It is estimated that H.R. 2571 would cost approximately \$7 billion over the next five years.

Title I — Child Welfare Services

Proposes to convert the Title IV-B Child Welfare Services Program from a discretionary program, for which funding must be sought annually, into a capped entitlement and targets the expanded funding to services that help strengthen and preserve families. The bill authorizes \$2.9 billion over the next four years, which reflects a significant increase over current funding levels. Two set-asides are created under the entitlement:

- 1) Services to strengthen and preserve families. By 1995, states must set aside 50% of their Title IV-B funds for family preservation and support services, reunification efforts, and adoption services.
- 2) Funding for state courts. Over a five-year period, \$115 million in grants would be available to state court systems to improve court procedures required under federal child welfare law.

In order to receive funds under this section, states would be required to submit a plan describing how the money would be allocated.

Title II — Foster Care and Adoption Assistance

- Would establish a Comprehensive Services Project (CSP) program which would allow states to use Title IV-E foster care and Title IV-B funds more flexibly in order to provide expanded preventive services to at-risk families. As an incentive to participate, states would receive a 10% increase in their IV-B allocation (Sec. 201).
- Proposes to eliminate the current AFDC eligibility requirements for the foster care program in order to expand federal support for more children in foster care. To offset a portion of the potential substantial costs of this provision, the federal match to states for maintenance payments would be reduced to 40% (the current match is based on states' Medicaid matching rate), child placement administrative costs to 25%, and training to 50% (Sec. 202).
- Extends Title IV-E adoption assistance to children at high risk for medical conditions or other handicaps, or whose conditions or handicaps manifest themselves after the adoption (Sec. 204).
- Funding of respite care for foster parents caring for "special needs" children (Sec. 203).
- Enhanced federal matching funds to states for the costs of designing, developing, and installing a comprehensive data information and management system (Sec. 206).
- Creation of an advisory committee (Sec. 205) to study and make recommendations regarding the "reasonable efforts" requirements under P.L. 96-272.

Title III — Emergency Assistance

Would require all states to participate in the AFDC emergency assistance program. Thirty-three now do so.

Title IV — Social Services Block Grant

Proposes an increase in Title XX Social Service Block Grant funds — from \$2.8 billion to \$3.2 billion over the next three years.

Title V — Research, Demonstration and Evaluation Activities Would establish a permanent Advisory Commission on Children and Families (ACCF) to be located within the Office of Technology Assessment. The ACCF would be responsible for identifying cost-effective approaches to protecting and enhancing the physical, mental, emotional, and financial well-being of children and their families. The ACCF would also be required to conduct evaluations of programs funded under Title IV-B, of the impact of permanent long-term foster care placements on children, and of the comprehensive service projects (Sec. 502). A separate authorization of \$120 million over four years would fund demonstration projects to test the effect of innovative child welfare practices (Sec. 504).

Title VI — Credit for Certain Adoption Expenses Would establish a tax credit equal to 50% of the first \$4,000 of certain nonrecurring expenses relating to the adoption of children with special needs.

Family Impact Assessment of S. 4 and H.R. 2571

This family impact assessment poses a number of questions based upon six key criteria and principles developed by COFO in order to examine the extent to which the provisions and specific language of the bills reinforce their intent to strengthen and preserve families, including biological, foster, and adoptive families. COFO's recommendations for strengthening and implementing the legislation are in boldface italics.

1. Family Support and Responsibilities

Policies and programs should aim to support and supplement family functioning and should provide substitute services only as a last resort.

- ◆ **How do S. 4 and H.R. 2571 aim to support and supplement parents' and other family members' ability to carry out their responsibilities?**

Current federal fiscal incentives favor substitute care over support services for families in crisis. To some extent, both bills direct federal fiscal incentives towards preventive and family preservation services by increasing funding for services that support families' care for their children.

Neither bill, however, fully reverses the incentives in favor of out-of-home care. Funding for out-of-home care remains an open-ended entitlement under both bills, although H.R. 2571 decreases the federal match. Funding that is likely to be used for in-home services is a capped entitlement under both bills.

2. Family Membership and Stability

Whenever possible, policies and programs should encourage and reinforce family, parental, and marital commitment and stability, especially when children are involved.

- ◆ **What resources are allocated to help keep the family together when this is the appropriate goal?**

Both S. 4 and H.R. 2571 substantially increase federal resources to states for services to help keep families together. S. 4 creates a capped sub-entitlement within the Title IV-B Child Welfare Services program to specifically fund family preservation, reunification, follow-up services, and respite care. If enacted, states could receive \$1.6 billion dollars over the next five years. (The current Title IV-B appropriation is \$273 million.) S. 4 would also provide \$475 million in entitlement funds over five years to assist states in developing and administering comprehensive substance abuse treatment programs for families.

H.R. 2571 provides more resources than S. 4. It would convert all of IV-B into a capped entitlement and would provide \$2.9 billion over the next four years. States would be required to set aside a portion of the total funds for services designed to strengthen and preserve families, with an emphasis on those families in crisis due to substance abuse.

Secondly, H.R. 2571 mandates that all states provide the AFDC emergency service program. In many instances, the additional short-term resources (rent, food, clothing, etc.) may be all that a family needs to be able to stay together. The federal matching rate to states for providing these services is 50%.

Thirdly, H.R. 2571 proposes an increase in the Title XX Social Services Block Grant so that by 1994 funding would equal \$3.2 billion. Title XX funds many preventive services for families.

Finally, under H.R. 2571, states could participate in the Comprehensive Services Project, which would allow states to commingle Title IV-B and IV-E funds in order to provide additional services that help strengthen families.

- ◆ **What effects might the bills have on marital stability and commitment or unmarried partners' relationships?**

Parental conflict can be a major contributor to neglect or abuse of children, yet neither bill explicitly specifies services to address conflict between parents. Due to the absence of federal direction, *COFO suggests that states specifically encourage providers of family preservation and reunification services to include activities to help parents resolve their conflicts and require special training for program staff in working with couples in conflict.*

- ◆ **What incentives or disincentives are provided to help families provide foster care or adopt children? What resources are allocated to assist these families?**

A positive aspect of both bills is the inclusion of incentives to help parents adopt "special needs" children. S. 4 provides a tax deduction of up to \$3,000 to help families with the one-time costs of adopting a disabled or other special needs child. H.R. 2571 establishes a tax credit equal to 50% of the first \$4,000 for certain adoption expenses.

In addition, H.R. 2571 includes another adoption incentive: it eliminates the AFDC and SSI eligibility requirements for the Title IV-E adoption assistance program, thereby expanding federal assistance to more children with special needs. It also extends adoption assistance to children at high risk for medical or handicapping conditions or whose medical condition manifest themselves after the adoption.

Moreover, both bills encourage states to provide respite care and follow-up services to adoptive families under the Title IV-B allocations.

Foster families would also receive support under both S. 4 and H.R. 2571. Both bills encourage states to fund respite care for foster families. H.R. 2571 explicitly allows federal reimbursement of such services under Title IV-E.

The well-documented shortage of foster parents is not specifically addressed by these bills. *COFO recommends that states and localities, working with associations of foster parents, use some of the new monies to replicate innovative methods of recruiting, training, compensating, and supporting foster parents.*

- ◆ **How do the services mentioned in S. 4 and H.R. 2571 help family members living apart remain connected and, if appropriate, come together again?**

Both S. 4 and H.R. 2571 are to be commended for the emphasis they place on strengthening reunification services. Like family preservation services, reunification services can be highly effective in improving family functioning so that children in placement can return home.

Parents in prison are too often left out of reunification efforts. Programs that strengthen inmate/family contacts reduce recidivism and help children withstand the separation from their parents. When planning reunification demonstrations, *COFO suggests that states include projects that assist incarcerated parents maintain their ties with their children by allowing infants to remain with their mothers, by encouraging and facilitating frequent visits of older children, and by keeping parents informed about the children's progress and well-being.*

3. Family Involvement and Interdependence

Policies and programs must recognize the strength and persistence of family ties, even when they are problematic.

- ◆ **To what extent do S. 4 and H.R. 2571 recognize the continuing influence of the family context upon the child's development and well-being?**

One of the strongest features of both bills is the understanding that a child's well-being is greatly influenced by the functioning of his family and that steps can be taken (e.g., family preservation and other in-home services) to strengthen the family and, thus, help the child. Both bills have particularly strong provisions addressing parental substance abuse. H.R. 2571 specifically requires that part of the new Title IV-B funds be used "to expand specialized child welfare service programs, to families in crisis due to substance abuse, that emphasize comprehensive services [and] are geared toward the whole family" (Sec. 104). Similarly, S. 4 proposes to target entitlement funds to states for the development of substance abuse treatment programs that provide an array of comprehensive supportive services to families (Sec. 201).

S. 4 includes a stronger recognition that other family conditions — lack of education, parenting skills, employment, shelter, and assistance with health problems, etc. — impact upon parents' ability to help their children grow strong and healthy. In S. 4's state coordination demonstration project, child welfare agencies are encouraged to link families with other support services, including, but not limited to, the JOBS program, education programs, and maternal and child health services. The legislation allows states the flexibility in developing specific mechanisms and/or establishing financial incentives that ensure interagency coordination and cooperation between child welfare agencies and other agencies that provide services to families. States participating in this demonstration project will be eligible for \$3 million each year to improve the coordination of services for families.

- ◆ **To what extent do S. 4 and H.R. 2571 acknowledge the power and persistence of family ties, especially when they are problematic or destructive?**

By placing significant emphasis on family preservation and other family support services, both bills implicitly acknowledge that powerful family ties exist — even when parents are neglectful or abusive. Acknowledgement in both bills of these family ties is a departure from child welfare policies that primarily focus on "rescuing" and protecting the child from the family with little regard to the complexity and longevity of familial bonds and their persistent impact on the child.

- ◆ **To what extent do services mentioned in S. 4 and H.R. 2571 involve extended family members in helping families stay together?**

Members of the extended family are increasingly being paid by child welfare agencies to provide foster care; this is called kinship care or relative care. (Although relatives have historically provided substitute care for children, it is only recently that some state governments have begun funding, monitoring, and supervising these arrangements.) However, neither S. 4 nor H.R. 2571 explic-

itly mentions how reunification or family preservation programs should involve extended family members in helping the biological family stay together.

Relative foster care raises a host of important, controversial, and complex questions that states need to address. For example, if the goal of permanency planning is reunifying children and parents, what are the incentives to reunite poor families when paid kinship care provides more money for the care of children than does AFDC? *COFO regrets that neither bill acknowledges the growing phenomenon of relative care nor provides policy guidance and direction to states on this issue.*

- ◆ How do S. 4 and H.R. 2571 help the child welfare system, including the courts, to better assess and balance the competing interests and needs of various members of a family?

By redirecting resources toward family support and family preservation services, both S. 4 and H.R. 2571 take tremendous steps towards balancing both the need to protect children from harm and to strengthen and preserve families. *In COFO's view, the critical issue at the service delivery level, however, is to assure that those implementing these laws receive sufficient training and time (i.e., low caseloads) needed to accomplish these difficult tasks.*

Courts, in conjunction with child welfare agencies, have the prevailing responsibility for balancing the needs, interests, and rights of various family members when decisions regarding out-of-home placement or the termination of parental rights are required. However, as Salvador Minuchin, child psychiatrist and family therapist, noted, "in court, the family and child are polarized. Family Court will assign one lawyer to the mother, another to the child, and a third to the [child welfare agency]. All three are paid by the state, and all three are supposed to operate on behalf of that particular client — and that means challenge and attack" (Minuchin, 1990). He points out that the judiciary, which by its very design determines guilt or innocence and defines a perpetrator (parent) and a victim (child), is ill-equipped as an institution to understand and deal with the complexities of family relationships. At present, there are no alternative procedures that attempt to address the best interests of the family as a unit or that mediate the competing interests.

Thus, COFO suggests that some of the state court grants provided for under H.R. 2571 be used to design and implement procedures that recognize more fully the complexity of family relationships and respect these relationships in the plans established for services to families and children. They might include using non-adversarial procedures such as mediation.

In addition, neither bill addresses the issue of parents' powerlessness in the face of the child welfare and court systems. Many have commented on the inadequate legal assistance available to parents, some of whom are later found to have been unjustly accused of abuse and neglect. Nor is much legal aid or advice available to those parents whose children are placed. Biological parents' rights

to have access to information, to participate in case planning, and to be consulted about decisions affecting their children need to be much more carefully defined.

Both bills require a study of the "reasonable efforts" requirement in order to give states and local agencies clearer guidelines, including when to proceed to terminate parental rights. While it may be true that in some instances the parents of abandoned infants are given too many rights, *COFO believes that more study should be focused on what rights parents (and grandparents) have to information, to adequate legal representation, and in decision-making, as well as on how these rights should be protected.*

4. Family Partnership and Empowerment

Policies and programs must consider families as partners when providing services to individuals.

- ◆ In what specific ways do S. 4 and H.R. 2571 encourage child welfare agencies to provide full information and a range of choices, as well as empower families in need of services?

Both bills would provide significant resources to states which can help them to develop a range of state-wide community-based services for vulnerable families. Presumably, enhanced service availability provides families with more choices, yet both bills are silent with regard to whether child welfare agencies could allow families to choose among the range of services available.

With regard to information about service availability, H.R. 2571 does require that states "compile a directory of certain specified service programs provided by the state and local child welfare agencies to families by relevant court jurisdictions" (Sec. 105). Child welfare departments would be required to distribute this directory to all state agencies and judges. Often, families and professionals are unaware of their community's network of churches, nonprofit social service agencies, and neighborhood groups that families can turn to in time of stress or crisis. *COFO recommends that state and local authorities allocate financial resources to make the directory accessible to all families who come in contact with the child protective and child welfare system, as well as to the general public.*

- ◆ In what ways are S. 4 and H.R. 2571 sensitive to the complex realities of families' lives and their need to manage and coordinate the multiple resources they often require?

Public welfare data indicates that most families and children who enter the child welfare system have multiple needs and problems that cannot be addressed by the child welfare system alone. Coordination and management of a range of services is required to help these families obtain appropriate and timely assistance. However, it is well-documented that needed services are often spread out across different agencies and departments (within the public and private sectors) without any formal mechanisms to

bring them all together to work for one family. Families and children who do not fit into any particular categorical slot, either because of income or type of problem, often find themselves without any help at all.

Both S. 4 and H.R. 2571 take significant positive steps to address the lack of coordination among different family-related services. S. 4 would allow up to 10 states to conduct demonstration projects designed to improve the coordination of child welfare services with other family-related support programs — AFDC, Child Support, Medicaid, WIC, and others. States would determine the mechanisms (interagency task forces, decategorization, case management, local planning committees, etc.) to be utilized in order to ensure coordination. States are also required to submit a description of state and federal laws that present barriers to the delivery of services. The bill also requires the Secretaries for the U.S. Departments of Health and Human Services, Agriculture, Education, and Justice to conduct a review of relevant federal policies and regulations and recommend changes to improve the coordination of services.

H.R. 2571 sets up a Comprehensive Services Project (CSP) program. Participating states would be allowed to commingle Title IV-B and Title IV-E funds to develop comprehensive and coordinated services to families. An emphasis is placed on coordinating child welfare, mental health, and juvenile justice services. Data indicate that families and children receiving child welfare services are often involved in these other systems as well. In order to participate in the CSP, states would be required to develop a plan and timetable for assessing services and program coordination needs and for implementing more comprehensive and coordinated service programs for children and families.

Importantly, both bills recognize the need for coordinated and comprehensive services at the state level, yet neither are explicit about how to ensure that families get the services they need at the service delivery level. A critical tool, which can greatly facilitate access to, and coordination of, services, is effective case management. *COFO recommends that states should require a primary case manager for each family to help them coordinate the multiple services they need.*

- ◆ In what ways do programs under S. 4 and H.R. 2571 encourage program professionals to work in collaboration with biological or extended families, foster families, or adoptive families?

Neither bill uses language that encourages states to require that child welfare workers work "in collaboration" with parents (whether they be biological, foster, or adoptive parents). Such a partnership requires that professionals work with the whole family, including extended family, and perhaps neighbors and neighborhood institutions in assessing the family's needs and developing and discharging the case plan. This collegial approach has the effect of empowering families to act upon their problems and to commit to efforts to improve the family. Intensive family preservation services include professional/parent partnerships as a pro-

gram component. Another successful model for involving parents as partners is Part H of P.L. 99-457, The Education of the Handicapped Amendments of 1986. This law specifically requires that professionals work *collaboratively* with the parents of developmentally disabled children to design and implement a Individualized Family Services Plan (IFSP) that is best suited for the child and the family. *COFO believes that family-sensitive child welfare reform should strive to incorporate such a "partnership" model in legislative language and in practice.*

- ◆ In what ways do S. 4 and H.R. 2571 involve parents and extended family members in policy and program development, implementation, and evaluation?

Unlike the early intervention legislation, P.L. 99-457, these child welfare reform bills do not provide explicit opportunities for parents and extended family to become involved in child welfare policymaking. However, there are several vehicles embedded in H.R. 2571 where such involvement could be made explicit. For example, *COFO believes there should be a requirement (or recommendation) that the Secretary appoint a foster, a biological, and an adoptive parent as members of the Advisory Committee on Foster Care Placement. Similarly, the fifteen-member Advisory Commission on Children and Families, proposed in H.R. 2571, should include members chosen specifically to represent parents as consumers.*

COFO is glad to note that both bills explicitly recognize that in any planned evaluation of the various demonstrations care must be taken to assess outcomes for the child *and* family.

5. Family Diversity

Families come in many forms and configurations, and policies and programs must take into account their different effects on different types of families. Policies and programs must recognize the diversity of family life, neither discriminating against nor penalizing families solely for reasons of structure, roles, cultural values, or life stage.

- ◆ How do the proposals affect various types of families?

Both bills are to be commended for recognizing the various needs of biological, foster, and adoptive families. Both, for example, acknowledge that states should fund family preservation, reunification, and follow-up services for both biological and adoptive families.

S. 4 also acknowledges that both foster care and adoptive families need respite care. States would have the discretion to provide respite to "any other" family who has children with special needs (Sec. 101), but the biological family is not specifically mentioned.

Neither bill specifically addresses other types of family diversity. However, families encountering the child welfare system today represent many diverse family structures, living arrangements,

lifestyles, and cultural beliefs and attitudes. This diversity can create complex challenges for administration and casework practice with respect, for example, to the roles and rights of extended families, non-custodial parents, step-parents, gay parents, etc. In addition, although the majority of children in care come from very poor, often welfare-dependent families, working, and middle-class families increasingly come into contact with the child welfare system and may need services. Income differences raise issues concerning eligibility and fee-for-service payments, as well as questions of the difficulties of placement across class lines and culture.

COFO recommends that any new efforts at developing model pre-service and inservice training curricula — such as required by S. 4 — should include a focus on these different types of family diversity and their applications for both policy and practice.

- ◆ Do S. 4 and H.R. 2571 identify and respect the different values, attitudes, and behavior of families from various racial, ethnic, religious, and cultural backgrounds that are relevant to program effectiveness?

No, not explicitly, but with one exception. In its Border Region Child Welfare Worker Training Demonstration project (Sec. 504), H.R. 2571 recognizes the importance of training “individuals to deliver culturally-sensitive bilingual services” to Hispanic families.

COFO believes that training is a crucial issue that needs to be addressed in implementing any child welfare reform legislation. Because the foster care caseload is disproportionately poor, African-American, and Hispanic, caseworkers and other professionals need to be trained in cultural competence, i.e., to understand and respect these families’ values and customs. Additionally, child welfare agencies should be required to make special efforts to recruit caseworkers from the same ethnic groups as the communities they serve.

6. Targeting Vulnerable Families

Families in greatest economic and social need and those judged to be most vulnerable to breakdown should have the first priority in government policies and programs.

- ◆ Do S. 4 and H.R. 2571 identify and target publicly supported services for families in the most extreme economic or social need?

Yes. Part of the intent of both bills in providing additional resources under Title IV-B is to increase access to services for families and children most “at-risk,” which is defined as those families in which a child (or children) is at imminent risk of being placed outside the home.

Because federal funding for prevention and early intervention programs has been very low (compared to reimbursement for substitute care), child welfare agencies have been restricted to serving families in extreme crisis — and usually at great expense. By expanding services to families who may be experiencing difficulty but have not yet entered crisis, many more at-risk families can receive services.

Increased Title IV-B funding and the elimination of the AFDC eligibility requirements in Title IV-E provide states with a welcome opportunity to provide increased support to “working poor” families and their children. Although these particular families are often in great need of services, they are usually overlooked in the development of child welfare policy. Many of these families work full-time, year-round but are still poor. Because their incomes fall above the poverty line, however, they don’t qualify for government assistance; yet neither do they have the disposable income to purchase child welfare services in the commercial sector. Many charitable nonprofit agencies provide services to these families on a sliding fee scale, but the demand for services has outpaced the ability of nonprofits to help all these families.

- ◆ Do S. 4 and H. R. 2571 give priority for preventive services to families who are most vulnerable to breakdown?

It is well documented that many of the families who are most vulnerable to breakdown live in poverty. Foster care statistics, although dated, indicate that many children who enter the foster care system do so because their parents are unable to obtain the most basic preventive supports like food, shelter, clothing, and health care. A chronic lack of basic necessities places severe stress on a family, which can lead to child abuse, substance abuse, domestic violence, and illness. Ironically, in many states, foster care payments are much higher than AFDC payments.

Neither S. 4 nor H.R. 2571 are designed to provide help to families in economic distress, but each provides opportunities to states through demonstration projects to experiment with innovative, coordinated approaches that help families access needed resources and services through other public agencies.

References

- Blumenthal, Karen, & Weinberg, Anita. (Eds.). (1984). *Establishing Parent Involvement in Foster Care Agencies*. Washington, DC: Child Welfare League of America.
- Center for the Study of Social Policy (1987). *The Framework for Child Welfare Reform*. Washington, DC: The Author.
- Child Welfare League of America in collaboration with the National Foster Parent Association. (1991). *A Blueprint for Fostering Infants, Children and Youth in the 1990s*. Executive summary and final report of the National Commission on

Family Foster Care. Washington, DC: Child Welfare League of America.

Kammerman, Sheila B., & Kahn, Alfred J. (1989). *Social Services for Children, Youth and Families in the U.S.* Greenwich, CT: The Annie E. Casey Foundation.

Minuchin, Patricia, & Minuchin, Salvador. (1991). *Written Testimony of Family Studies, Inc. submitted to the House Subcommittee on Human Resources*, May 1, 1991. Available from the American Association for Marriage and Family Therapy, 1100 17th Street, NW, The Tenth Floor, Washington, DC 20036-4601.

The National Commission on Child Welfare and Family Preservation. (1990). *A Commitment to Change: Recommendations*. Washington, DC: American Public Welfare Association.

Ooms, Theodora, & Beck, Deborah. (1990). *Keeping Troubled Families Together: Promising Programs and Statewide Reforms*. Background Briefing Report. Washington, DC: Family Impact Seminar.

Ooms, Theodora. (1990). *The Crisis in Foster Care: New Directions for the 1990s*. Background Briefing Report. Washington, DC: Family Impact Seminar.

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COFO Family Policy Report

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