



**CHILDREN'S COURT IMPROVEMENT COMMISSION**

**STRATEGIC PLAN  
AND  
ACTION PROPOSALS**

**2021-2024**

# CCIC STRATEGIC PLAN & ACTION PROPOSALS

## 2021 – 2024

### PRIORITIES, GOALS AND INITIATIVES

#### A. Prevention and Early Intervention

**GOAL: To keep children safely with their parents by providing legal and other services and supports to families who are at risk of entering the child welfare system**

##### Year One Initiatives:

1. Provide early intervention legal counsel and advice to parents to assist them in making decisions and navigating systems prior to an abuse/neglect petition being filed (this would include before signing a VPA and throughout the VPA). Develop a pilot project in the Second Judicial District. [See Proposal in Attachment 1 – Pages 6-8]
2. Provide implementation supports, i.e., the training, tools, and other supports to judges, attorneys, law enforcement, and other legal stakeholders to implement and promote the intent and requirements of new legislation and new practices. Form a Legal Stakeholders Workgroup to develop implementation supports as legislation passes: [See Proposal in Attachment 2 – pages 9-10]
  - a. Implementation supports for Code and practice changes resulting from Fostering Connections existing and possibly revised legislation.
  - b. Implementation supports for Code and practice changes resulting from Short Stayers (48 Hour Hold) legislation
  - c. Implementation supports for Code and practice changes resulting from Voluntary Placement Agreement legislation
  - d. Implementation supports for Code and practice changes resulting from Subsidized Kinship Guardianship legislation
  - e. Implementation supports for Code and practice changes resulting from Indian Child Welfare legislation

##### Year Two-Three Initiatives:

1. Disentangle poverty and neglect – look at NM’s neglect definition and statute as well as various rules, regulations and practices; look at mandatory reporting data and requirements; look at opportunities through training and other mechanisms to shift attitudes and culture (here’s an interesting concept – “mandatory supporters not just mandatory reporters”)
2. Provide pre-petition legal services to parents on collateral legal matters related to allegations of neglect (e.g., civil legal matters related to housing, homelessness, immigration, employment, loss of public benefits, orders of protection, etc.)
3. Coordinate pre-petition legal services with pre-petition support services provided by CYFD and its partners

## B. Expediting Permanency

**GOAL 1: To reduce children's time in foster care by expediting paths to permanency with the desired outcome of safe reunification.**

### Year One Initiative:

1. Implement data-driven strategies; form a Data Workgroup to: [See Proposal in Attachment 3 – Pages 11-13]
  - a. Secure data to better inform what delays to permanency are prevalent and where
  - b. Adopt new or revised performance measures; create comparability between Court and CYFD measures where possible; create a dashboard that is provided with core indicators and performance measures quarterly (e.g., timeliness of required court events, placement data, permanency outcomes, etc. broken down for ICWA children in foster care, broken down by race and ethnicity, etc.)
  - c. Provide judges with data, training, and support for docket management, use of technology, quality court proceedings, and other practices to improve compliance with federal and state permanency timeframes including more early hearings, Cornerstone-type advocacy and decision-making, more effective use of technology, etc.
2. Change the Children's Code to provide for reinstatement of parental rights [See Proposal in Attachment 4 – Pages 14-18]

### Year Two-Three Initiatives:

1. Shift practices related to permanency options – e.g., accomplish more reunifications and fewer TPRs, more Permanent Guardianships, more relative placements and kinship care, etc.
2. Shift values and culture toward a primary focus on the strengths of families.

**GOAL 2: to reduce children's time in foster care by providing enhanced supports to families**

### Year One Initiative:

1. Research whether there are cross system approaches to accomplish the following, starting with family time (visitation) and then later looking at parent and community peer advocacy/mentoring and caregiver-parent partnerships. [See Proposal in Attachment 5 – Pages 19-22]
  - a. How to expedite family time (visitation) from a cross system perspective regular visits with the lowest possible level of supervision that most closely mimics family life, e.g., new strategies like visitation hosts; include Infant Mental Health professionals, etc.
  - b. What new practices and supports could be developed cross system related to parent and community peer advocacy/mentoring and caregiver-parent partnerships (e.g., shared parenting models);

### Year Two-Three Initiative:

1. Research cross system approaches to providing enhanced, trauma responsive, behavioral health and other services for children and parents

### **C. Supporting Older Youth**

**GOAL: To achieve better outcomes for youth who will or have transitioned out of care by providing additional supports**

#### **Year One Initiative:**

1. Continue efforts on crossover youth – e.g., secure data, work on rule changes, look at lessons learned in the 2<sup>nd</sup> Judicial District; promote statewide practice changes [See Proposal in Attachment 6 – Pages 23-25]

### **D. Securing ICWA Compliance**

**GOAL: To achieve positive outcomes for Indian children by adopting and implementing new practices**

#### **Year One Initiative:**

1. Provide implementation supports for Code and practice changes resulting from NM ICWA legislation (also cited above) [See Proposal in Attachment 2 – Pages 9-10]

#### **Year Two-Three Initiative:**

1. Study the practices and lessons learned in the 2<sup>nd</sup> Judicial District as well as other states to improve statewide ICWA practice including but not limited to ICWA Court, ICWA relevant Court practice, legal representation, and case management

### **E. High Quality Representation**

**GOAL 1: To improve the quality of representation by adopting the recommendations of the Family Representation Commission - ongoing**

**GOAL 2: To ensure that high quality legal representation is an integral part of each of the above priorities – we are proposing this as one of the proposed cross cutting areas (“lenses”)**

## CROSS CUTTING QUESTIONS

### CCIC WILL EVALUATE EACH INITIATIVE LOOKING FOR OPPORTUNITIES TO PROMOTE:

#### Judicial leadership:

- Is there an opportunity for judicial engagement or direction at the case level?
- Is there an opportunity for judicial leadership at the community and system level?

#### Racial equity:

- Are there relevant data on disproportionate impact?
- Are there relevant policies or procedures that indicate structural or systemic racism?

#### Data

- What data are needed to inform this initiative?
- What data are needed to evaluate this initiative?

#### Training

- What training is needed to accomplish this initiative?
- What are the opportunities for cross-training?
- What are the opportunities to include people with lived experience in planning and delivering training?

#### Quality of Representation

- What are the opportunities to provide high quality legal representation with this initiative?
- What are the opportunities to provide interdisciplinary team legal services with this initiative?

## RELATED PROJECTS AND GROUPS

### CCIC COULD ORGANIZE ITS CONNECTIONS TO RELATED EFFORTS AS FOLLOWS

**CCIC Workgroups** – part of the Strategic Plan, facilitated & managed by CCIC, with regular reports and discussion

**CCIC Adjunct Workgroups** – aligned with the Strategic Plan, facilitated & managed by the Adjunct Workgroup, with regular reports. Currently this could include the Family Representation Commission, the NM Family Advocacy Project, the CLI Planning Committee, and perhaps others

**CCIC Associated Projects** – not formally connected to CCIC, but mission consistent, with periodic reports when relevant. Currently this could include the Young Parents Workgroup, the Juvenile Justice and Fostering Connections Workgroup, the Substitute Care Advisory Council, the Kevin S. Settlement Implementation Team, and perhaps others.

## Attachment 1

### **A Proposal to the Children’s Court Improvement Commission to Create *Early Intervention Legal Services* and Conduct a Pilot in NM 2<sup>nd</sup> Judicial District**

#### **STRATEGIC PLAN REFERENCE**

##### **A. Prevention and Early Intervention**

**GOAL: To keep children safely with their parents by providing legal and other services and supports to families who are at risk of entering the child welfare system**

##### **Year One Initiatives:**

1. Provide early intervention legal counsel and advice to parents to assist them in making decisions and navigating systems prior to an abuse/neglect petition being filed (this would include before signing a VPA and throughout the VPA). Develop a pilot project in the Second Judicial District

#### **Introduction**

“Early Intervention Legal Services” refers to legal counsel and advice provided to families by specially trained Court Appointed Attorneys intended to ensure that parents and guardians are fully informed about the decisions facing them, fully informed about their legal rights and options, and fully informed about legal proceedings and the work of Children’s Court as well as related Domestic Relations matters when relevant.

Early Intervention Legal Services is not legal representation in court but rather legal counsel and advice to assist the family in making decisions and navigating systems usually prior to an abuse/neglect petition begin filed. This legal counsel and advice is not intended to duplicate the information provided to parents by CYFD investigative workers or other protective services personnel; it is strictly about legal rights and options.

“Early Intervention Legal Services” is not to be confused with what is commonly referred to as “Pre-Petition Legal Services.” The latter refers to providing legal advice, counsel and representation on ancillary legal matters presumably related to allegations of neglect. These could include civil legal matters related to housing, homelessness, immigration, employment, loss of public benefits, orders of protection, and more. In several jurisdictions across the country, these services are being provided by organizations such as Legal Aid, often with private grant funding. Down the road and with agreements in place with CYFD, “Early Intervention Legal Services” and “Pre-Petition Legal Services” could be funded in whole or in part through IV-E funds now available for legal representation of families.

#### **Purpose**

- To reduce the number of children coming into legal custody and if in custody, ensuring time in care is as short as possible.

- To ensure that parents who are at immediate risk of having a child(ren) removed are fully informed of their legal rights and options before their child is removed and before a petition is filed;
- To ensure that parents who have had a child(ren) removed are fully informed of their legal rights and options before a petition is filed;
- To insure that parents who are considering a Voluntary Placement Agreement or a Subsidized Kinship Guardianship Agreement are fully informed of their legal rights and options before signing documents placing their child(ren) in CYFD custody and/or appearing in a related Domestic Relations matter;
- To provide continuity in those instances where a petition is filed in full realization that more time is needed to work on dismissal as quickly as possible.

### **Recipients**

The families to be served would include those where a report has been received and accepted for investigation generally with allegations of neglect. Families would be referred by CYFD and would include families facing removal of a child; 48 hour holds, families discussing Voluntary Placement Agreements or Kinship Guardianship, families discussing Protective Supervision, families involved in domestic violence matters, and other cases referred by CYFD.

### **Indicators for Referral**

A report has been filed with CYFD and accepted for investigation typically with allegations of neglect. The safety assessment, risk assessment and/or family centered meeting indicates potential removal from home, or the child has already been removed from home, usually as a 48 hour hold. (NOTE: The safety assessment addresses whether the child can safely remain at home. The risk assessment addresses whether a case should be opened and whether additional services should be provided. The family centered meeting works out and documents safety and/or services.)

- The safety assessment has been completed resulting in a determination of “safe with a plan” or “unsafe.” “Safe with a plan” results in an SDM agreement spelling out the provisions to be put in place. These provisions could also result from a family centered meeting. A safety assessment of “unsafe” means a removal and an SDM agreement or family centered meeting agreement outlining those provisions. (The initial safety assessment is done prior to removal or within 24 hours of initiating the investigation.)
- The risk assessment results in a determination of “high risk.” (The risk assessment is done after the safety assessment has been completed AND prior to the decision to file a legal petition. (Low and moderate risk cases are referred to community providers.)
- A family centered meeting may have been held to outline safety and/or service planning provisions. These are articulated in a family centered meeting agreement.

A report has been filed with CYFD and accepted for investigation typically with allegations of neglect. The safety assessment, risk assessment and/or family centered meeting indicates the potential for a Voluntary Placement Agreement or potential Kinship Guardianship triggering the appropriateness of Early Intervention Legal Services (advice and counsel) in advance of moving forward in the Domestic Relations case.

A report has been filed with CYFD and accepted for investigation typically with allegations of neglect. The safety assessment, risk assessment and/or family centered meeting indicates the need to file a petition for the short term in order to continue working on the terms of dismissal of the case.

### **Developing the Project**

In order to move forward with Early Intervention Legal Services, the CCIC would establish a Workgroup to:

- Revise the definition, purpose and goals as necessary
- Define in more operational terms the families appropriate for these services
- Secure data on projected number of families who could be referred
- Create definitive (operational) referral criteria
- Create the referral process to include procedures as well as paperwork
- Develop a job description for attorneys outlining their roles and duties as well as other conditions (e.g., short term availability, rotating assignments)
- Develop a compensation package for attorneys; secure approval to use IV-E funds
- Working with the Center on Child and Family Justice, the CLI, and others, develop training for attorneys and others
- In conjunction with CYFD, develop training for investigative workers and other protective services personnel
- Develop tracking, evaluation, and quality monitoring procedures and tools

## Attachment 2

### **A Proposal to the Children’s Court Improvement Commission to Form a Legal Stakeholders Implementation Workgroup**

#### **STRATEGIC PLAN REFERENCE**

##### **A. Prevention and Early Intervention**

**GOAL: To keep children safely with their parents by providing legal and other services and supports to families who are at risk of entering the child welfare system**

2. Provide implementation supports, i.e., the training, tools, and other supports to judges, attorneys, law enforcement, and other legal stakeholders to implement and promote the intent and requirements of new legislation and new practices. Form a Legal Stakeholders Workgroup.

##### **Introduction**

A number of statutes have or will be introduced that will impact the role and practices of various members of the legal community. It is imperative that these legal stakeholders are equipped to implement and promote the intent and requirements of new legislation and subsequent new practices. Equipping these stakeholders means providing information, training, tools (e.g., benchcards, court rules, forms, etc.), and other resources to ensure that the intent of the legislation is implemented as intended. We are calling these “implementation supports.” Legal stakeholders primarily include judges, attorneys (GALs, youth attorneys, respondent attorneys, children’s court attorneys, public defenders, and others), law enforcement, and possibly others.

##### **Purpose**

Ensure that relevant legal stakeholders implement new legislation related to child welfare as intended

##### **Scope**

As of this writing, the new or emerging legislation requiring implementation supports includes the following. Additional legislation could be introduced that expands this scope.

1. Code and practice changes resulting from Fostering Connections legislation.
2. Code and practice changes resulting from Short Stayers legislation
3. Code and practice changes resulting from Voluntary Placement Agreement legislation
4. Code and practice changes resulting from Subsidized Kinship Guardianship legislation
5. Code and practice changes resulting from Indian Child Welfare legislation

##### **The Workgroup**

The Legal Stakeholders Implementation Workgroup could be an extension or expansion of the current Legislative Committee that is currently tasked with drafting legislation on behalf of the CCIC. Legal Stakeholders Implementation Workgroup participants might well mix and match depending on the specific statute being reviewed for implementation supports. This could include representation from practicing NM judges; representatives of the attorneys who would be practicing in accordance with the

law; organizations that provide training (including but not necessarily limited to the Corinne Wolfe Center for Child and Family Justice; the Judicial Education Center; the Children’s Law Institute; and for some Code changes, the Law Enforcement Academy); Judicial Information Division personnel if data are need to inform or evaluate the implementation efforts; at least advisory representation of national experts from Casey Family Programs, the ABA Center for Children and the Law, the National Council of Juvenile and Family Court Judges; the National Center for State Courts; etc.; service and program providers if practices are impacted by the statute; youth and parents with lived experience who could inform the development of implementation supports and/or could be enlisted in training efforts; members of the Family Representation Commission if quality of representation and/or interdisciplinary legal services are implicated; and AOC staff who would provide background research, facilitation, note taking, and other staff supports.

**Workgroup Tasks – For Each Statute:**

Closely review the legislation and create a matrix or similar tool that lists each provision

Identify the relevant legal stakeholders - judges, attorneys (GALs, youth attorneys, respondent attorneys, children’s court attorneys, public defenders, and others), law enforcement, and possibly others

For each provision-stakeholder ‘match,’ determine what actions need to take place to ensure appropriate implementation of the provision – information dissemination, training, tools (e.g., benchcards, court rules, forms, etc.), and other resources or activities.

For each action, work with the Center on Child and Family Justice, the CLI and others to develop training and other supports

For each action, list the major tasks and identify responsible parties and timelines.

For each action, identify opportunities for judicial leadership in implementation.

For each action, identify if data are needed to inform or evaluate the strategy.

For each action, identify opportunities to address structural or systemic racism

For each action, determine if there are opportunities to provide high quality legal representation and interdisciplinary team legal services.

## Attachment 3

### **A Proposal to the Children’s Court Improvement Commission to Implement Data-Driven Strategies**

#### **STRATEGIC PLAN REFERENCE**

#### **B. Expediting Permanency**

**GOAL 1: To reduce children’s time in foster care by expediting paths to permanency with the desired outcome of safe reunification.**

#### **Year One Initiatives:**

3. Implement data-driven strategies; form a Data Workgroup to:
  - a. Secure data to better inform what delays to permanency are prevalent and where
  - b. Adopt new or revised performance measures; create comparability between Court and CYFD measures where possible; create a dashboard that is provided with core indicators and performance measures quarterly (e.g., timeliness of required court events, placement data, permanency outcomes, etc. broken down for ICWA children in foster care, broken down by race and ethnicity, etc.)
  - c. Provide judges with data, training, support and oversight towards docket management, use of technology, quality court proceedings, and other practices that will improve compliance with federal and state permanency timeframes including more early hearings, Cornerstone- type advocacy and decision-making, more effective use of technology, etc.

#### Introduction & Purpose

The idea of becoming more data-driven is not new to CCIC but with this strategic plan, we hope to elevate the importance of data in each of our strategic initiatives as well as in overall monitoring the performance of the cross-system child welfare world. To that end, we would form a Data Workgroup to accomplish the objectives stated above – informing the source of delays to permanency; creating performance measures and dashboards to regularly monitor the system; and provide courts with data and strategies to expedite permanency.

#### Workgroup Tasks

1. Begin to catalog the research and evaluation questions and corresponding data elements critical to the CCIC mission and strategic plan. For example, the Workgroup could look at:
  - a. What do we need to know in terms of current and historical counts/trends in (for example) the number of:
    - o Cases/filings
    - o Re-entries
    - o Short stayers
    - o Crossover youth

- Extended care eligible adults
  - TPRs
  - Adoptions
  - Appeals
  - Other
- b. What do we need to know in terms of current and historical trends in the timeliness of various hearings and time between hearings (e.g., time between TPR and adoption); what do we need to know about delays
- c. What do we need to know in terms of current and historical trends in case outcomes – e.g., Counts and timeliness of case closures by permanency outcome - reunification, adoption, permanent/legal guardianship, aged out, APPLA, other
- d. What do we need to know in terms of current and historical trends in numbers and types of placements per child
- e. What do we need to know in terms of current and historical trends in the demographics and other characteristics of children and families:
- Age
  - Gender
  - Race
  - Ethnicity
  - Tribal affiliation
  - Geography
  - Number of siblings
  - Number of respondents
- f. What do we need to know particularly in terms of current and historical trends in data that would point to racial and gender inequities
- g. What do we need to know in terms of current and historical trends in various continuity indicators:
- Number of caseworkers/case
  - Number of attorneys/party/case
  - Number of judges
  - Number of CASAs
- h. What do we need to know in terms of current and historical trends in various court processes, for example:
- Appointments and timing thereof of attorneys by party, CASA, EDM, others
  - Service of process
  - Notice of hearings: parties (including youth), attorneys, CASAs, caseworkers, treatment providers, foster parents, relative caregivers, pre-adoptive parents, others
  - Appearance at hearings: parties (including youth), attorneys, CASAs, caseworkers, treatment providers, foster parents, relative caregivers, pre-adoptive parents, others
  - Mediation

- Visitation
  - i. What do we need to know in terms of current and historical trends in judicial caseloads and the composition thereof
- 2. Assess the capacity of the AOC's Odyssey system to produce data consistent with research and evaluation questions and with the objectives stated above:
  - What data are currently housed in Odyssey
  - What data can be accessed for research and evaluation purposes
  - What capacity exists to generate tables, graphs and other dashboard presentations
- 3. Explore the possibility of collaborating with CYFD and reporting some of their data (e.g., 360 type data, CSFR data, etc.)
- 4. Develop data dashboards and other presentations for the CCIC on a range of performance measures and other indicators
- 5. Working with the Center on Child and Family Justice, the CLI and others, determine what training is needed for child welfare stakeholders in using these data and in developing strategies to become more data-driven in their respective spheres (e.g., tracking outcomes, continuous quality improvement, etc.)

## Attachment 4

### **A Proposal to the Children’s Court Improvement Commission to Draft Legislation Providing for the Reinstatement of Parental Rights**

#### **STRATEGIC PLAN REFERENCE**

##### **B. Expediting Permanency**

##### **GOAL 1: To reduce children’s time in foster care by expediting paths to permanency**

##### **Year One Initiatives:**

2. Change the Children’s Code to provide for reinstatement of parental rights

##### Introduction

About half the States have passed legislation to allow for the reinstatement of parental rights following termination and/or relinquishment as a strategy to achieve permanency for certain youth. These laws largely reflect growing concerns about the numbers and circumstances of children aging out of foster care (often described as “legal orphans”). New Mexico does not currently provide for reinstatement of parental rights but there is growing interest in pursuing such a course. The idea was mentioned in several interviews with CCIC members and interested parties prior to developing the strategic plan outline presented at the November 13, 2020 meeting. Preliminary research into the status of such legislation across the country revealed a number of resources to guide this work as well as a number of factors that would have to be taken into consideration in drafting legislation for New Mexico. A Reinstatement Workgroup would be formed to review the research and chart a path for New Mexico.

##### Purpose

To determine under what circumstances New Mexico should provide for reinstatement of parental rights and pass legislation providing for such reinstatement in the Children’s Code.

##### Workgroup Tasks

1. Review the literature on current reinstatement statutes across the country with a particular focus on the circumstances and requirements under which reinstatement is allowable and which might be applicable in New Mexico. Here’s a start on where to look.

The Child Welfare Information Gateway has compiled a number of resources to guide this work. The compilation can be found at: <https://www.childwelfare.gov/topics/permanency/reunification/parental-rights/#:~:text=Reinstating%20parental%20rights%20is%20a,achieved%20within%20a%20specific%20timeframe.>

This site provides a pretty extensive review of the literature on reinstatement as well as a number of state and local examples. These include:

- a. An article in the NYU Review of Law and Social Change (*Backward Progress Toward Reinstating Parental Rights*) describes how, “for the most part, these laws have been inadequate to address the problem because they are motivated by a view of termination of

parents' rights that does not fit current realities.”

[https://socialchangenyttest.files.wordpress.com/2017/11/adams\\_publisherproof\\_9-10-17-1.pdf](https://socialchangenyttest.files.wordpress.com/2017/11/adams_publisherproof_9-10-17-1.pdf)

- b. A University of Michigan Journal of Law Reform piece (*Bio Family 2.0: Can the American Child Welfare System Finally Find Permanency for ‘Legal Orphans’ with a Statute to Reinstate Parental Rights*) that proposes a “model” statute, suggesting which criteria (circumstances) might be build into a reinstatement statute.

<https://repository.law.umich.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1034&context=mjlr>

- c. A Child Information Gateway article (current through 2016) that reviews state laws and the circumstances under which reinstatement can be provided. As of the date of that article, they found: that approximately 22 States have provisions for reinstating the rights of a parent whose rights have been terminated. In 13 States, if a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court requesting reinstatement of the parent’s rights. In 10 States, the statutes specify that reinstatement is available only to older children who have not attained a permanent placement. In all cases, the court must determine whether the parent has made substantial progress in correcting the conditions that led to the termination of his or her parental rights and now is able and willing to provide the child a safe home. The court also must find that reinstatement of the parent’s rights is in the best interests of the child and that the parent and the child both agree to the reinstatement. In six States, the State agency must submit a permanency plan to the court, with reintegration as a permanency goal, which describes the transition services that will be provided to the child and family to support reintegration. In seven States, the court may order a trial home placement before the restoration of rights is finalized.

<https://www.childwelfare.gov/pubPDFs/groundtermin.pdf>

- d. A Casey Family Programs report in 2018 on *How Have States Implemented Parental Rights Restoration and Reinstatement*. They note that as of August 7, 2017, 24 states have such provisions: Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Iowa, Louisiana, Maine, Michigan, Minnesota, Nevada, New York, North Carolina, Oklahoma, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. They also list the common circumstances under which reinstatement can happen:

- There must be evidence of the parent’s substantial progress in correcting the previous conditions that led to the termination of parental rights;
- The parent must be both able and willing to provide the child a safe, permanent home;
- The reinstatement/restoration must be in the best interests of the child; and
- Both the parent and the child must agree to the reinstatement.

They then break down states and statutes further by additional requirements that include:

- If a permanent placement has not yet been achieved within a specific timeframe, the law provides that a petition may be filed with the court requesting reinstatement of the parent’s rights.
- The statute specifies that reinstatement is available only to older children who have not attained a permanent placement.
- The statute only applies to cases in which an adoptive placement has disrupted.
- The statute only applies to cases with previous relinquishment of parental rights.

- The state agency must submit a permanency plan to the court, with reintegration as a permanency goal, that describes the transition services that will be provided to support the child and family.
  - The court may order a trial home placement before the restoration of rights is finalized.  
<https://www.casey.org/how-have-states-implemented-parental-rights-restoration-and-reinstatement/>
- e. A University of Washington School of Law Court Improvement Training Academy (2014) report (*Reinstatement of Parental Rights*) provides information to Washington child welfare stakeholders on their statute, covering “topics of eligibility, hearings, considerations of the court, efforts to achieve permanency, timing, and more.”  
<https://www.wacita.org/benchbook/chapter-23-reinstatement-of-parental-rights/>
- f. The Barton Child Law and Policy Center of the Emory University School of Law webinar in 2017 (available on YouTube) that also covers various state laws as well as “case studies, and the perspectives of the legal and child welfare communities that work on these cases.”  
<https://www.youtube.com/watch?v=OzS96wrfSfY>
- g. A FindLaw entry which is generally directed to parents who are looking to have their rights reinstated but also provides some important highlights about the differences in provisions from state to state, including differences in evidentiary requirements (“most states that allow for the reinstatement of parental rights require ‘clear and convincing’ evidence that the parent is fit to care for their child. Nevada law has a much lower standard of proof (preponderance of the evidence’), while North Carolina law even allows ‘hearsay’ evidence in court proceedings if it is considered ‘relevant, reliable and necessary’ to determine a child’s best interests.) The article also points out that qualifications differ from state to state. (“for instance, Alaska law restricts this remedy to only those who voluntarily relinquished their parental rights; Louisiana law allows children in foster care over the age of 15 to petition for reinstatement of their parents’ rights; and Washington law doesn’t specify who may or may not petition the court.”) Finally, they provide the following illustrations of differences:
- California: For eligibility, three years must pass from the date of termination (unless it is determined earlier that the child is not likely to be adopted); court must identify a factual basis for a finding that reinstatement is in the child’s best interest if the child is under 12.
  - Nevada: Only the child or legal guardian of the child may petition the court to reinstate the natural parent’s rights; children 14 or older must consent to a reunion with an estranged parent, while the court must indicate a factual basis for reinstatement for children under 14.
  - New York: Two years must pass after the date of termination in order to be eligible; the state advises birth parents who are granted reinstatement, helping to develop a reunification plan and transition services.  
<https://family.findlaw.com/parental-rights-and-liability/reinstatement-of-parental-rights-after-termination.html>
- h. A National Council of State Legislators piece in 2016 (*Reinstatement of Parental Rights State Statute Summary*) summary. At that time, there were “approximately 22 states with legislation in place that allows for the reinstatement of parental rights following termination of parental

rights. In 13 states, if a permanent placement has not been achieved within a specific timeframe, a petition may be filed with the court requesting reinstatement of the parent's rights. If the court determines that the parent is now able to provide a safe home for the child, the request may be granted. In 10 States, the statutes specify that reinstatement is available only to older children who have not attained a permanent placement. The laws were developed in response to children who were aging out of the foster-care system and re-establishing ties with parents and family members." <https://www.ncsl.org/research/human-services/reinstatement-of-parental-rights-state-statute-sum.aspx>

- i. An ABA Family Law Quarterly publication "*The Sky is Not Falling: Lessons and Recommendations from Ten Years of Reinstating Parental Rights*" in 2018. The piece "discusses the frequency and impact of reinstating parental rights around the United States and concludes with policy recommendations to ensure the reinstatement of parental rights is a viable for option for achieving permanency for some children and youth." [https://www.americanbar.org/groups/family\\_law/publications/family-law-quarterly/volume-51/issue-2/5102-03-schalick/](https://www.americanbar.org/groups/family_law/publications/family-law-quarterly/volume-51/issue-2/5102-03-schalick/)
- j. The Child Welfare Gateway site also contains a few state and local examples as well from Los Angeles (policy guidelines), Washington State (working with youth to file a petition), and North Carolina (myths and facts)

**Additional steps (#2-5 below) might be as suggested in the Casey Family Programs piece cited above:**

2. Identify a measurable target population. Examine the current data and historical trends.
3. Use the data to educate stakeholders about the population of youth that this potential legislation would serve. Describe and highlight those youth who might benefit from this avenue for permanency at some point, such as youth aging out of foster care; youth in residential care waiting for permanent families; youth who had previously achieved permanency with legal guardians or adoptive parents who subsequently pass away; and youth whose adoptions disrupt.
4. Take steps to ensure stakeholders are aware of the need for such legislation – and its intended uses. Highlight that the proposed legislation is not a reversal of previous court findings or decisions. Emphasize that it is designed for families where there is an introduction of new findings and new information that gives context for the consideration of reinstatement/restoration as a path to permanency. Note that reinstatement/restoration is not about parental needs or wants, or about overturning successful adoptions, but that it is focused on those children who have yet to achieve permanency or have recently lost their permanent caregivers. Affirm that the proposed legislation concerns those children who are languishing in foster care, children who are legal orphans, and children who will enter adulthood without a stable, safe family.
5. Develop materials and other talking points to convey that this avenue is not about restoring the rights of just any birth parents who have had their rights terminated, but about recognizing that, in a small subset of the foster care population, children who are legal orphans may be able to achieve permanency with their birth parents, as their capacity to parent may have changed with the passage of time, completion of substance abuse or mental health treatment services, and other life changes or introduction of new supports. Initiate a messaging tour to visit stakeholders and share the data and rationale for the proposed legislation, and how it could be used in the field.
6. Research effective messages with policymakers in different states for advancing the notion to reinstate parental rights

7. Incorporate opportunities to address structural or systemic racism in the statute as well as resultant implementation and practice
8. With passage of a reinstatement statute, and working with the Center on Child and Family Justice, the CLI and others, create training curriculum and educational opportunities for youth, families, and all other child welfare stakeholders
9. Identify what data are needed to inform or evaluate this initiative in terms of permanency and other outcomes

## Attachment 5

### **A Proposal to the Children's Court Improvement Commission to Develop Cross System Approaches to Providing Enhanced Supports to Families**

#### **STRATEGIC PLAN REFERENCE**

#### **B. Expediting Permanency**

**GOAL 2: to reduce children's time in foster care by providing enhanced supports to families with the desired outcome of safe reunification**

#### **Year One Initiatives:**

1. Research whether there are cross system approaches to accomplish the following, starting with family time (visitation) and then later looking at parent and community peer advocacy/mentoring and caregiver-parent partnerships.
  - a. How to expedite family time (visitation) from a cross system perspective (provide for regular visits with the lowest possible level of supervision that most closely mimics family life, e.g., new strategies like visitation hosts; include Infant Mental Health professionals
  - b. What new practices and supports could be developed cross system related to parent and community peer advocacy/mentoring and caregiver-parent partnerships (e.g., shared parenting models)

#### **Introduction**

When the idea of providing enhanced family supports was presented to CCIC at the November meeting, it was noted that the suggested initiatives could land on CYFD to implement. Since CCIC is all about cross-system change, it was decided that we needed that perspective. Thus the initiative was framed to look at whether there are cross-system approaches to both family time (visitation) and parent peer advocacy, starting with family time (visitation). Given that it is now well-established that more family time (visitation) (and the more "natural" the visitation) results in shorter time in care, and given the challenges posed by COVID, there is some urgency to this initiative.

#### **Purpose**

To develop cross-system approaches to family time (visitation) as a means to expediting permanency

To develop cross-system approaches to parent peer advocacy and caregiver-parent partnerships as a means to expediting permanency

#### **Workgroup Tasks**

##### **Family Time (Visitation)**

In order to move forward with expediting meaningful family time (visitation), the CCIC would establish a Family Time Workgroup to take on the following tasks. The Family Time Workgroup would have the support of AOC personnel in conducting this work.

- Review the Information Memorandum on family time and visitation issued February 5, 2020 from the U.S. DHHS Children’s Bureau.
- Review the research, statutes, codes and practices in other states that provide for parent visitation coaching, family-like settings, unsupervised time (given no objective evidence of safety risk), and other best or promising practices; include practices relevant to COVID and beyond.
- In conjunction with CYFD, review innovative approaches in states or other localities working with community-based organizations to support facilitation of family time; innovations could include how and when supervision is deemed necessary; how and when a “visit host” (trusted by parent) would be considered; and how and when more frequent and longer visits take place. Review independent visit coaching to help enhance parenting skills and promote relationships between foster parents and parents, and providing family-like physical spaces for parents and children to spend time together. Include review of practices developed in response to COVID and beyond.
- Review use of technology to facilitate greater frequency and support for “family time” virtually, drawing on lessons learned from COVID that can be extended to COVID and beyond. Explore the use of new CIP funds for this purpose.
- Compile and review New Mexico’s current judicial benchcards, checklists, orders, and other tools used at each hearing regarding family time (visitation) describing how each relates to current practices. Refer to the National Center of Juvenile and Family Court Judges’ (NCJFCJ) *Enhanced Resource Guidelines* as one assessment tool.
- In conjunction with CYFD, review what is happening currently in New Mexico with respect to case plans, frequency and quality of family time (visitation), location of family time visits, inclusion of siblings, and other parameters with the purpose of identifying cross-system barriers.
- Seek input from youth and parents with lived experience about what constitutes meaningful family time (visitation) and what barriers exist in that regard.
- Identify the optimal role of infant mental health experts in this effort, including but not limited to building attorney and judicial knowledge about the developmental needs of children.
- Revise and/or create tools for judges including checklists, benchcards, and/or protocols (questions) that could be used at every hearing regarding family time - informed by NCJFCJ *Enhanced Resource Guidelines* and by CYFD practice/case plans. Tools should reinforce that family time is not used as a case compliance reward or consequence. These tools need to include family time (visitation) as a key factor in making reasonable or active efforts determinations.
- Update and/or create a guide or checklist for attorneys and interdisciplinary legal teams representing all parties to ensure meaningful family time, including siblings and relatives, is a priority.
- Update policies across systems to support changes to current family time (visitation) provisions.
- Create or update family time (visitation) specific court rules as applicable.

- Working with the Center on Child and Family Justice, the CLI and others, enhance or create training curriculum and educational opportunities for judges and attorneys on the importance of family time and the implementation of any new guidelines, checklists, benchcards, or practices developed as part of this initiative.
- Working with the Center on Child and Family Justice, the CLI and others, develop cross-trainings with CYFD, judges and attorneys regarding the trauma of removal, and how meaningful family time is foundational to expediting reunification.
- Identify what data are needed to inform and evaluate this initiative
- Identify opportunities to address structural or systemic racism in existing and proposed policies and practices.

### Parent Peer Advocacy & Caregiver-Parent Partnerships

This component of enhancing family supports is likely to start after work on family time has been largely completed. In order to move forward with new practices and supports related to parent peer advocacy and caregiver-parent partnerships, the CCIC would establish a Parent Support Workgroup to take on the following tasks. The Parent Support Workgroup would coordinate with the Family Advocacy Program and would have the support of AOC personnel in conducting this work.

- Review and assess for New Mexico innovative programs and practices in other states and jurisdictions across the country that are implementing parents for parents support (peer mentoring) including Washington State, Iowa, and Massachusetts. Specific attention would be paid to how these programs connect to inter-disciplinary representation as is being developed by the Family Representation Commission.
- Coordinating with CYFD, review and assess for New Mexico parent mentor/support programs that support parents with co-occurring substance abuse and child maltreatment such as the Kentucky START Sobriety Treatment and Recovery Team as well as Safe Babies Courts that are located in jurisdictions across the country.
- In conjunction with CYFD efforts, review and assess for New Mexico innovative caregiver-parent partnership programs in states and jurisdictions across the country where parents and caregivers work together in supporting the child and maintaining parent-child attachment. Review tools developed by the Birth & Foster Parent Partnership (a collaboration of National Alliance of Children's Trust, Youth Law Center Quality Parenting Initiative and Casey Family Programs).
- Engage birth parents to inform what worked and what did not in terms of support needed from caregivers. Engage caregivers to understand opportunities for parent-caregiver partnership.
- Delineate potential roles for parent mentors in and out of court, i.e., as resources for parents between hearings; develop a structure and system to recruit, train and support parents with lived experience.
- Explore piloting a Safe Babies Court or similar model in one judicial district.
- Working with the Center on Child and Family Justice, the CLI and others, enhance or create training curriculum and educational opportunities for judges and attorneys to included parents with lived experience in representation for parents – in court and out of court.

- Working with the Center on Child and Family Justice, the CLI and others, enhance or create training curriculum and educational opportunities for judges, attorneys and CASAs to advance expectations that caregivers are a support for birth parents and children as opposed to being viewed as adversaries.
- Identify what data are needed to inform or evaluate this initiative
- Identify opportunities to address structural or systemic racism in existing and proposed policies and practices.

## Attachment 6

### **A Proposal to the Children’s Court Improvement Commission to Continue Efforts on Behalf of Crossover Youth**

#### **STRATEGIC PLAN REFERENCE**

##### **C. Supporting Older Youth**

**GOAL: To achieve better outcomes for youth who will or have transitioned out of care by providing additional supports**

##### **Year One Initiatives:**

1. Continue efforts on crossover youth – e.g., secure data, work on rule changes, look at lessons learned in the 2<sup>nd</sup> Judicial District; promote statewide practice changes

#### **Introduction**

Members of the JJ Committee are committed to continuing their work on crossover youth. They have already defined and categorized crossover youth and collected the limited data that are currently available. Review of resources ultimately focused on the Georgetown University Center for Juvenile Justice Reform’s Crossover Youth Practice Model (CYPM). This model was developed in 2010 to address the “unique needs of youth that are at risk of or are fluctuating between the child welfare and juvenile justice systems.” This model was seriously being considered but the adoption was costly (a contract of \$75,000 - \$100,00) and efforts were put aside. The Committee is thus determined to develop a NM model for crossover youth.

The JJ Committee entertained the idea of creating a bench card that would outline the issues involving crossover youth as well as offer information on available resources. They opted instead to look at various court rule changes. The Committee entertained creating a new court rule to address one judge/one youth (one judge/one family) practice. After debating and researching this possibility, they determined that there was already a provision in place, namely Section 32A-1-3(G) NMSA reads: “to provide continuity for children and families appearing before the children’s court by assuring that, whenever possible, a single judge hears all successive cases or proceedings involving a child or family.” Given this, Supreme Court Justice Barbara Vigil sent a letter to judges reminding them of this provision and the efficacy of one judge for crossover youth when there are two cases. There has been no follow up to date to determine the frequency of one judge hearing both cases for crossover youth though this could be explored in AOC’s Odyssey data.

There is also a pilot project on crossover youth in the 2<sup>nd</sup> Judicial District that could be expanded to a statewide model. The pilot includes multiple aspects, including giving GAL’s and Youth Attorneys notice for juvenile justice hearings for their clients. The goal is to first have guidelines written up (taken from the Second Judicial District Crossover Youth Workgroup), then to co-train, implement, evaluate, and finally make recommendations to the Rules Committee. This is planned for early 2021.

#### **Purpose**

Develop a statewide model for crossover youth, including the practice of one judge / one family

Reduce the number of youth crossing over and becoming dually-involved

Reduce the number of youth crossing over and becoming dually-adjudicated

Reduce the number of youth placed in out-of-home care (especially congregate care)

Reduce the number of youth later involved in the adult criminal justice system

### **The Youth**

Crossover youth are those young people who are, or at risk of, crossing back and forth between the child welfare and juvenile justice systems. In the largest sense, this includes young people who are victims of abuse and/or neglect who have also engaged in delinquent behavior even if there has been no system involvement. Crossover youth include a smaller group of dually involved youth and a still smaller group of dually adjudicated youth. Dually involved youth are those young people who are simultaneously being served in both the child welfare and juvenile justice systems whether or not they are formally adjudicated in either or both systems. Dually adjudicated youth are simultaneously adjudicated in both systems.

### **Workgroup Tasks - Continuing the Project**

Under the proposed strategic plan, the Committee (renamed as the Crossover Workgroup) would create and promote policies and a practice model specifically addressing services to crossover youth. Elements of a practice model that could be considered include:

- Early identification – what protocols might be put in place to identify/flag, at the earliest possible point, youth who cross over from child welfare to juvenile justice as dually involved? What are those points – arrest, detention, another intake point? Are there time frames that should be adopted for making contact?
- Cross system communication & information sharing – what needs to happen to make sure workers and attorneys are notified? What needs to happen to make sure information is exchanged? What information should be exchanged (e.g., medical, behavioral health, placement, education, case history, etc.). What privacy and confidentiality issues are there? Will information exchange require MOUs, the court rule changes currently contemplated, consent or release forms, or other actions?
- Joint assessment – are there ways to initiate a joint assessment process that informs decision-making regarding actions in the juvenile justice case and informs service planning? Are there crossover assessment tools that can be put in place?
- Coordinated case planning – what needs to happen to ensure that youth, families, child welfare, juvenile justice, service providers, and others come together to develop, implement and monitor case plans? Are there evidence-based practices for crossover youth that can be incorporated in these plans (e.g., Wraparound services)? Can coordinated case planning extend to placement decisions, permanency strategies and transition planning?
- Family engagement – what strategies can be put in place to reach out and genuinely engage families in decision-making?
- Court model – what strategies can be put in place to consolidate court processing through a one judge/one family model or alternative (e.g., dedicated dockets)?
- Coordinated case management – how should workers and attorneys be engaged to attend court hearings and other events in both systems as relevant? How are the issues of sealed

courtrooms and sealed records best handled? What about HIPAA? Do court rules need to change? What else needs to be done to make coordinated case management happen?

Create and implement infrastructure that includes:

- Specialized training for child welfare and juvenile justice attorneys on representing crossover youth to ensure the highest quality of representation (in conjunction with the Center on Child and Family Justice, the CLI and others,
- Other training in conjunction with the Center on Child and Family Justice, the CLI and others, that supports the entirety of the practice model – judges, child welfare caseworkers, juvenile justice personnel, etc.
- Attention to racial and gender inequities – data that inform the extent of inequities; strategies to minimize disparities
- Data to inform the process and to track outcomes; continuous quality improvement strategies
- Opportunities for judicial leadership in terms of the court model, the conduct of hearings in both systems, and the expectations of parties