



RECOMMENDATIONS FOR FEDERAL REFORMS OF FOSTER CARE

CALIFORNIA WORKING FAMILIES POLICY SUMMIT
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INTRODUCTION

Once properly implemented, the federal *Fostering Connections to Success and Increasing Adoptions Act* (House Resolution 6893, Public Law 110-351) promises to be the greatest legislative reform for foster children in more than a decade. Importantly, it dwarfs almost every known, recently enacted state reform. Much remains to be done, however, if the outcomes of our foster care systems are to avoid shocking our consciences.

While there are many systemic and needed reforms of foster care that are possible on a state level, a lack of state funding is repeatedly raised as an impediment to improving outcomes for foster children. This has been true historically even when state coffers were bloated by the dot com and real estate bubbles. Now that the nation faces the worst economic crisis since at least the recession of the early 1990s, the budget situation for states across the country has made the prospect of increased state funding a distant prospect.¹

California's budget is at the forefront of state fiscal dysfunction with the budget deficit so large and its ability to raise revenues so remote that it is unknown when California will be able even to spend the matching funds required to implement HR 6893 let alone spend the required sums required to fulfill our overall moral obligation to California's approximately 70,000 foster children. True, the federal government debt and deficit are poised for significant increases as the next Administration seeks to stimulate the economy. Yet, while it is patently the case that no significant funds will soon be forthcoming from the states it is equally apparent that a new Administration plus an even more Democratic Congress presents a new opportunity to reform foster care ambitiously at the national level, at least with an ambition equal to the Bush Administration's and Congress' HR 6893.

The federal government currently spends approximately \$7 billion per year to reimburse states for a part of their foster care expenses. More than 500,000 U.S. children are in foster care. Title IV-E of the Social Security Act authorizes federal money to be paid to states on an entitlement basis, meaning any proper expenditure by a state will be partially reimbursed or matched without limitation. The federal

¹ Consider the following from the Center on Budget and Policy Priorities (December 2008): At least 44 states faced or are facing shortfalls in their budgets for this and/or next year, and severe fiscal problems are highly likely to continue into the following year as well. Combined budget gaps for the remainder of this fiscal year and state fiscal years 2010 and 2011 are estimated to total more than \$350 billion. States are currently at the mid-point of fiscal year 2009 — which started July 1 in most states — and are in the process of preparing their budgets for the next year. Over half the states had already cut spending, used reserves, or raised revenues in order to adopt a balanced budget for the current fiscal year — which started July 1 in most states. Now, their budgets have fallen out of balance again. New gaps of 42 billion (9% of state budgets) have opened up in the budgets of at least 41 states plus the District of Columbia. These budget gaps are in addition to the \$48 billion shortfalls that these and other states faced as they adopted their budgets for the current fiscal year, bringing total gaps for the year to nearly 14 percent of budgets. The states' fiscal problems are continuing into the next two years. At least 38 states have looked ahead and anticipate deficits for fiscal year 2010 and beyond. These gaps total almost \$80 billion—17 percent of budgets—for the 30 states that have estimated the size of these gaps and are likely to grow as gaps are re-estimated in the next few months. (<http://www.cbpp.org/9-8-08sfp.htm>)

government imposes detailed conditions on the use of these funds, and the states have responded by designing their systems by hewing to federal mandates.

As a result, foster care can now fairly be described as, in the main, a federal program. For this reason, advocates should consider lobbying the federal government to reform both existing federal programs as well as urging the federal government to take the lead on enacting the kind of legislation required to address problems that have endured for generations.²

POLICY OBJECTIVE #1

To develop consensus recommendations for the federal reform of foster care using California's experience as a starting point and then to have a coalition of California elected officials and California-based advocates seek Congressional enactment of those reforms.

Recommended Actions

Persuade the Assembly Select Committee on Foster Care and key Senators to hold joint committee hearings throughout the state (south, central and northern California) to develop consensus recommendations and refine a plan of federal action. Possible consensus recommendations include³:

- A. **Emphasize prevention.** The vast majority of dedicated federal funding for child welfare is currently reserved for supporting children in foster care placements and cannot be used for prevention services. Additional federal investment in family support would ensure that some children never have to enter foster care at all, and can instead, remain safely where they want to be—at home.
- B. **Reward success.** States should be rewarded for reducing the number of children in foster care, rather than punished by losing federal funds for case workers. States should be allowed to reinvest savings from safely reducing their foster care case loads.
- C. **De-link AFDC.** The link between eligibility for federal foster care support under Title IV-E to eligibility for the now-defunct Aid to Families with Dependent Children program should be removed. Between 1998 and 2004, an estimated 35,000 fewer children were eligible for federal foster care support in part due to this outdated eligibility requirement, and translating to a roughly \$1.9 billion decrease in child welfare funds to the states.
- D. **Investigate racial disparity.** Identifying racial disparities in the experiences of families and children served by the child welfare system is essential. The United States Department of Health and Human Services (HHS) should adapt the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS) to track outcomes for children in the child welfare system by race; the Federal assessment of state performance—the Child and Family Service Review (CFSR) process—should determine the extent to which racial disparities and inequities continue to persist; cultural competence training should be expanded; and federal resources should provide supports and incentives for approaches that improve the quality and racial equity of child welfare decisions, through proven practices such as team decision making.

² For example, Title IV-E funds foster care on an unlimited basis but caps the amount spent for services that would either prevent the child's removal from the home in the first place or speed permanency. Funding for preventive and reunification services through IV-B of the Social Security Act are small in comparison with those dedicated to foster care and adoption. Foster care funding under title IV-E comprised 65% of federal funding dedicated to child welfare purposes in 2004. Adoption Assistance funding under IV-E comprised 22%. Funding that may be used for prevention represents a mere 11% of federal child welfare funds; hardly a "family values" approach to federal funding.

³ In the main, these recommendations are lifted from the work of the Pew Commission on Foster Care, the Casey Family Foundation, and the US Department of Health and Human Services.

- E. **End unnecessary documentation.** The Title IV-E program's unnecessary documentation requirements should be eliminated pursuant to an HHS review where HHS should be required to establish a link between paperwork required and paperwork needed to document progress and outcomes.
- F. **Rationalize state funds.** The average annual amount of federal foster care funds received by states ranges from \$4,155 to \$33,091 per eligible child. It is unlikely these disparities are the result of actual differences in the cost of operating foster care programs or reflect differential needs among foster children. Rationalizing such payments is needed.
- G. **Increase matches for foundational personnel.** Enough social workers, judges, and children's counsel are needed to ensure that each child is treated with the individual attention amply warranted to their needs and our responsibilities as substitute parents. Matches should be increased to 75% for these kinds of foundational services that determine the efficacy of all of the other state and federal monies spent. Likewise, it is odd that the training of staff is matched at 75% but the underlying program they staff is matched at only 50%. A greater federal match for current programs conditioned on states redirecting the money saved to other programs could help.
- H. **End the secrecy, learn from tragedy.** When a child dies after contact with protective services or while in foster care we have a responsibility to determine if that death could have reasonably been prevented in order to prevent another death of a child who we have assumed responsibility for protecting. Notwithstanding the federal Child Prevention and Abuse Prevention Act, the responses of state and localities to child deaths is scattershot and mostly miserly. Such deaths are still mostly cloaked in secrecy throughout the nation. California has led the way in pulling back the veil of secrecy on such child deaths with the aim of preventing future ones; and the federal government should insist upon a far more consistent and consistently open approach to child deaths and near deaths.
- I. **Don't ignore youth who reject the system.** The wrongest wrong in foster care is that our funding ends when the abused and neglected child turns 18, forcing these children—allegedly our responsibility—too often to steal or prostitute themselves just to survive. HR6893 will help as soon as the states have money to match, but some significant number of children at 18 will reject staying in group settings or with foster parents. And just as a parent would not abandon a child who sought to strike out on their own at 18, neither should we.
- J. **Insist on performance.** The federal government must have more clearly prescribed performance measures and/or must regularly gather the data and issue national annual reports on how well each state is doing, emphasizing things like job placement, avoiding homelessness, college graduation, avoiding criminality, all benchmarked against national averages for children of the same age not in foster care.

For more information on these recommendations, contact:

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