CHILD WELFARE LAW & POLICY UPDATE

Georgia Conference on Child Abuse and Neglect
Sept. 7, 2017
Atlanta, GA
I'm just a bill!
THREE THINGS TO REMEMBER ABOUT POLICY:
Policy Analysis Is ...

- The application of:
  
  **Evidence**
  - What does the available data tell us?
  - What are the contributions from science?
  - What has experience shown us?

  **Reason**
  - How do we think rationally and use common sense and logic to form judgments?

  **Values Framework**
  - What are the relevant community standards?
  - What are the political considerations?
  - What are our beliefs, attitudes, philosophies and ideologies?
Where Do Policy Ideas Come From?

- Changes in federal law
- High profile cases, powerful anecdotes
- New research
- Data patterns or anomalies
- National trends
- People!
How A Bill Becomes Law

- As Introduced
- As Amended in Committee
- As Amended on Second Reading
- As Enacted
- As Funded by Joint Budget Committee
- As Implemented by the State Agency
- As Reported by the Media
- As Understood by the Public
- What Was Actually Needed

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CHILD WELFARE HIGHLIGHTS
FROM THE 2017-18
LEGISLATIVE SESSION
SFY ‘18 Budget Highlights

• More than $94 million additional funds appropriated to the DHS-DFCS budget
• $31 million total public funds, including approximately $26 million in state funds, to increase child welfare services worker salaries by 19%
• Nearly $4 million in total public funds, including $2.9 million in state funds, for 80 additional foster care support services employees
• $2.5 million for 27 additional employees to fully implement supervisor-mentor program
• $2.5 million for 25 additional human resource employees to meet recruitment demands
• $20.2 million to support growth in foster care
• $12.5 million to increase the DFCS foster parent per diem by $10
• $14.9 million for the first installment of a two-year plan to increase relative foster parent per diem rates by $10
• $6.1 million for the first installment of a two-year plan to increase CPA foster parent per diem rate by $10
House Bill 159

- Comprehensive update and modernization of the Adoption Code
- Under consideration for second year, broad bipartisan support
- Then, Senate Judiciary Committee amended the bill to provide ...
  - “A child-placing agency may decide not to accept a referral for foster care or adoption services under a contract with the department based on the child-placing agency’s mission as evidenced by its written policy, statement, or other document”
  - And prohibiting the department from taking “any adverse action” against an agency that refuses to accept a referral for foster care or adoption services.
  - And waiving the state’s sovereign immunity for claims by agencies asserting violations for other than a claim for monetary damages
Child Welfare Provider Inclusion Act

- Generally permit state-licensed foster care and adoption agencies to refuse to place and provide services to children and families if doing so conflicts with their written religious beliefs or moral convictions

- North Dakota (2003); Virginia (2012)

- 5 additional states since 2015 (Mississippi, Michigan, South Dakota, Alabama, Texas)

  - Countermeasure: “Every Child Deserves a Family Act” (H.R. 2460, S.1301)
SEX TRAFFICKING
Sex Trafficking (Georgia)

- **HB 86** (Oliver, D-Decatur) -- amends O.C.G.A. 19-7-5, relating to mandatory reporting of child abuse, to expand the definition of sexual abuse to include sex trafficking. *Passed.*

- **SR 307** (Unterman, R-Buford) -- would create the Sexual Exploitation and Human Trafficking Joint Task Force to examine the conditions, issues and problems related to human trafficking and Georgia's response. The Task Force would be composed of 14 members, with appointments made by the President of the Senate, the Speaker of the House, and the Governor, and will be abolished on December 1, 2017. *Did Not Pass.*

- **HB 341** (Reeves, R-Marietta) -- amends Title 16 (Criminal Code) and O.C.G.A. 17-10-6.2, relating to punishment for sexual offenders, to expand the offense of trafficking for sexual servitude to include solicitation of victim of sexual servitude and impose a sentence of 5-20 years for a victim who is 16 or 17 years old and 10 to 20 years for a victim under age 16 or who is developmentally disabled. The bill also imposes increased penalties (sentence of 25-50 or life) for coercion or deception of a minor or an individual with a disability. A mandatory 24 hour jail term is imposed for the offenses of keeping a place of prostitution, pimping, and pandering. *Passed.*
Sex Trafficking (HB 341 cont’d)

■ The bill would also change provisions relating to the posting of a model notice with human trafficking hotline information to require that the notice, developed by the Georgia Bureau of Investigation, provide a method for contacting the National Human Trafficking Hotline and the Statewide Georgia Hotline for Domestic Minor Trafficking.

■ Finally, the bill would require that anyone convicted of a dangerous sexual offense, as defined, after June 30, 2017 register with the State Sexual Offender Registry.
Sex Trafficking (cont’d)

- **SB 104** (James, D-Atlanta) – amends O.C.G.A. 16-5-47, relating to the offenses of kidnapping, false imprisonment and other offenses, to require the posting of the human trafficking hotline number in government buildings, as defined in the bill, and a hyperlink to the model notice on the Georgia Bureau of Investigations website on the homepage of all government entities. **Passed.**

- **SB 39** (Unterman, R-Buford) – would amend O.C.G.A. 16-6-13, relating to penalties for pimping and pandering, to require that any person convicted of pimping be found guilty of a felony punishable by one to ten years in prison, and any person convicted of pandering to be found guilty of a misdemeanor of a high and aggravated nature for the first offense and a felony for any second or subsequent offense, punishable by imprisonment for one to ten years. **Did Not Pass.**
Sex Exploitation (Georgia)

- Georgia’s Child Sexual Abuse & Exploitation Prevention Technical Assistance Resource Guide:
Human Trafficking (Federal)

- Protecting Against Child Exploitation Act of 2017 (H.R. 1761)
- Put Trafficking Victims First Act of 2017 (H.R. 2473)
- Empowering Educators to Prevent Trafficking Act (H.R. 2268)
- Trafficking Victims Prevention Act of 2017 (S. 1312)
- CATCH Traffickers Act of 2017 (H.R. 53)
- Abolish Human Trafficking Act of 2017 (S. 1311 / H.R. 2803)
ACCESS TO RECORDS
Access to Records (Georgia)

- **HB 75** (Willard, R-Sandy Springs) -- amends O.C.G.A. 49-5-41, relating to access to records, to exclude from public records disclosure any part of a child abuse record that contains information provided by law enforcement or prosecuting authorities in any pending investigation or criminal prosecution. *Passed.*

- **SB 168** (Miller, R-Gainesville) -- amends O.C.G.A. 49-5-41, relating to the child abuse records, to extend access to child abuse records to licensed adoption agencies and local and state law enforcement, the Department of Community Supervision, the Department of Corrections, and the Department of Juvenile Justice, when such entities are providing services to individuals and families to whom DFCS is also providing services, except where such release of information is otherwise prohibited by law. The bill also amends O.C.G.A. 49-5-185, relating to the child abuse registry, to allow any federal, federally recognized tribal, state, or local government entity which is investigating or responding to a child abuse report or any such federal, federally recognized tribal, state, or local government entity or child placing agency conducting a background check of prospective foster or adoptive parents to have access to the registry. *Passed.*
Access to Records (Federal)

- Child Protection Improvement Act of 2017 (H.R. 695 / S. 705)
  - Establishes a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities
REGULATORY STREAMLINING
Regulatory Streamlining (Georgia)

- **HB 250** (Ballinger, R-Canton) – amends O.C.G.A. 49-5-69.1, relating to fingerprint and preliminary record checks for foster homes, to authorize DFCS to accept a letter issued within the previous 12 months by the Department of Early Care and Learning stating that a person who provides short-term care for a child in foster care has received a satisfactory record check by DECAL in lieu of any background screening or fingerprint check otherwise required by state law or agency regulation. *Passed.*

- **SB 170** (Hill, R-Atlanta) – referred to as the "Georgia SERVES Act of 2017," would amend Title 49, Chapter 5, relating to child protection programs, to require the requiring DFCS, in consultation with its residential child care licensing unit and child placing agencies, to adopt policies and procedures to establish a uniform system for the approval of volunteers to provide certain services to children in foster care and foster parents. *Did Not Pass.*

- **HB 242** (Prince, D-Augusta) – would amend O.C.G.A. 19-7-5, the mandatory child abuse reporting statute, to provide that DFCS must notify the Department of Defense Family Advocacy Program when a report of child abuse is made that involves a military parent or guardian and to allow reports of suspected child abuse to be made to military law enforcement if DFCS is not available to receive the report. *Did Not Pass.*
Regulatory Streamlining (Federal)

- Modernizing the ICPC Act (H.R. 2742 / S. 1257)
  - Amends Title IV-E of the SSA to include an electronic case-processing system and authorizes funding for the development of such a system

- National Adoption and Foster Care Home Study Act (S.684 / H.R. 1650)
  - Creates demonstration programs and evaluation of processes for the evaluation of prospective foster parents and adoptive parents and provides funding to adopt such process
FAMILY-BASED CARE
Informal Caregivers (Georgia)

- **HB 331** (Abrams, D-Atlanta) – amends Title 20, Chapter 1, relating to general education, to enact a new article entitled "The Caregiver Educational Consent Act." This new Act would authorize a kinship caregiver, as defined to include grandparent, great-grandparent, aunt, uncle, great aunt, great uncle, cousin, sibling, or fictive kin who has assumed responsibility for raising a child in an informal, noncustodial, or guardianship capacity, to give legal consent for the child to receive educational services, medical services related to academic enrollment, or participate in curricular or extracurricular activities by executing an affidavit that conforms to the form set forth in statute. **Passed as an amendment to SB 186.**

- **HB 359** (Fleming, R-Harlem) – would amend Title 19, relating to domestic relations, to enact a new Article 4 entitled the "Supporting and Strengthening Families Act." This new Act would replace the existing "Power of Attorney for the Care of a Minor Child Act" and would allow a parent to delegate caregiving authority without court approval to a grandparent, step-grandparent, aunt, uncle, great aunt, great uncle, cousin, sibling or to an individual associated with a licensed child placing agency or non-profit focused on child and family services in good standing with the IRS for up to one year by executing a power of attorney that conforms to the form set forth in statute. **Vetoed.**
Kinship Care (Georgia)

- **HB 330** (Abrams, D-Atlanta) -- would amend O.C.G.A. 15-11-211, relating to a diligent search for relatives by DFCS, to specify additional information to be provided in the notice, including the contact information for a caseworker qualified to assist a kinship caregiver or the contact information for a county or district director, and any financial assistance available through any pilot program or for any kinship care arrangements. *Did Not Pass.*

Family-Based Care (Federal)

- Family First Prevention Services Act (H.R. 253)
  - Stated objective is “to invest in funding prevention and family services to help keep children safe and supported at home ... and to ensure that children in foster care are placed in the least restrictive, most family-like, and appropriate settings...”

- Amends Title IV-E of the SSA to allow the use of federal funds for (1) mental health and substance abuse prevention and treatment services and in-home parenting skills-based programs, (2) foster care maintenance payments for children with parents in a licensed residential family based treatment facility for substance abuse, and (3) payments for evidence-based kinship navigator programs.

- Amends Title IV-B of the SSA to allow for family reunification services during the 15-month period beginning on the date the child returns home
Family First Prevention Services Act (cont’d)

- *Restricts federal funding for placements that are not a family foster home (i.e., placed in the care of an individual who resides with the child and is licensed/approved to be a foster parent)*

- Requires procedures and protocols to ensure children in foster care are not inappropriately diagnosed and placed in inappropriate settings as a result
Family Based Care (Federal)

- **Stop Child Abuse in Residential Programs for Teens Act of 2017 (H.R. 3024)**
  - “Covered programs” would be required to meet minimum standards including:
  - Prohibition of child abuse and neglect, certain disciplinary techniques involving withholding of necessities, physical or mental abuse, and use of seclusion, medical restraints, physical restraints that impair breathing or communication
  - *Other physical restraints allowed only in emergency situations involving imminent danger of harm to self or others and after less restrictive interventions have been determined to be ineffective*
  - Allowing each child to have reasonable access to a phone and be informed of their right to maintain frequent contact with as much privacy as possible
  - Maintaining appropriate staff-to-child ratios to ensure child safety and treatment efficacy
    - *Creates private right of action*
    - *Appropriations of $5 million for each FY, 2018-2022*
Family Based Care (Federal)

- Child Protection and Family Support Act of 2017 (S. 1268), also see Supporting Families in Substance Abuse Treatment Act (H.R. 2857)
  - Amends Title IV-E and IV-B of the SSA to allow states to provide foster care maintenance payments for children with parents in licensed residential family-based treatment facilities for substance abuse
- Period of 12 months
- Placement recommendation must be specified in the child’s case plan before the placement
- Treatment facility must provide parenting skills training, parent education and individual and family counseling, through trauma-informed framework
Family Based Care (Federal)

- **Family-Based Care Services Act of 2017 (H.R. 2290)**
  - *Provides a standard definition of therapeutic family care services in Medicaid*
  - Permits states to employ medical necessity criteria
  - Defined as services provided to children under the age of 21 who, as a result of mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, need the level of care provided in an institution or nursing facility but who can be cared for or maintained in a community placement, through a “qualified” TFC program:
    - Licensed by the state and accredited
    - Provides structured daily activities (age-appropriate social, communication and behavioral skills, trauma informed and gender-responsive services, crisis intervention and crisis support, medication monitoring, counseling, and case management)
    - Provides bio parents, relative and kinship caregivers, adoptive parents and foster family homes with specialized training
EMANCIPATING YOUTH
Tuition Waivers for Youth Aging-Out of Care (Georgia)

- **HB 467** (Hugley, D-Columbus) – would amend O.C.G.A. 20-4-39 to require the Technical College System of Georgia to create a program of in-state tuition waiver for students "from a foster home situation." Eligible youth must have graduated from a high school or received his or her GED from the Technical College System of Georgia, and for at least 12 months immediately preceding the first day of enrollment, been placed in foster care, enrolled in an independent living program, or is a child adopted out foster care after the age of 14. *Did Not Pass.*

- **HB 307** (Scott, D-Rex) – would amend Title 20 (Education Code) to create the "Higher Education Access and Success for Homeless and Foster Youth Act," which provides for students in foster care or who are homeless to qualify for in-state tuition. To qualify as a "student from a foster home situation," the youth must have graduated from a high school or received his or her GED from Georgia or an adjacent state, and for at least 12 months immediately preceding the first day of enrollment, been placed in foster care, enrolled in an independent living program, or is a child adopted out foster care after the age of 14. To qualify as a "student from a homeless situation," the youth must have graduated from high school or received his or her GED from Georgia or an adjacent state, be under the age of 24, and provide sufficient evidence of homelessness for reasons other than incarceration. The bill would also exclude foster care assistance from consideration as income for purposes of calculating financial aid. *Did Not Pass.*
Supports for Older Youth (Federal)

- **Fostering Stable Housing Opportunities Act of 2017 (H.R. 2069)**
  - Provides for federally assisted housing programs for youth who are aging out of foster care by creating a preference in tenant-based assistance, occupancy in a public housing dwelling unit, and occupancy in a section 8 project-based assistance dwelling unit for children in foster care who are “at risk of homelessness”

- **Homeless Children and Youth Act of 2017 (H.R. 1511 / S.611)**
  - Amends the McKinney-Vento Homeless Assistance Act to clarify/expand coverage to “child or youth defined as homeless under another Federal program”
Supports for Older Youth (Federal)

- **Timely Mental Health for Foster Youth Act (H.R. 1069 / S. 439)**
  - Requires an initial healthcare screening for a child in foster care to be completed within 30 days, followed by a comprehensive assessment within 60 days if indicated

- **Supporting Foster Youth in Successful Parenting Act of 2017 (H.R. 2682)**
  - Imposes reporting requirements on states, creates demonstration grants to develop evidence-based approaches, requires written plan for expectant or parenting youth

- **Foster Youth and Driving Act (H.R. 2512)**
  - Expands foster parent training, requires plan for driving prep in case plan, creates driving and transportation assistance program and provides new appropriations

- **Improving Services for Older Youth in Foster Care Act (H.R. 2847)**
  - Allows states to extend foster care to age 23 and ETV program through age 25
On the Horizon

- Child Abuse Registry
  - Child Maltreatment Definitions

- Relative (Kinship) Care

- (In)Formal Caregivers
Q&A

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