

Testimony of Cassie Statuto Bevan, Ed.D.
Before the Senate Aging and Youth Committee
November 2, 2011
Child Welfare Fellow, Field Center
Adjunct Lecturer, School of Social Policy and Practice
University of Pennsylvania

Introduction

Thank you Senator Washington and the distinguished Members of the Senate Aging and Youth Committee for inviting me to testify before you this morning. I want to start by thanking you for your continued interest and work in the area of child welfare over many years. To lead the legislature on an issue such as protecting vulnerable children does not bring with it the prestige that the tax writing legislators command, or the political support from the business lobbyists and, clearly not the fundraising prowess lavished upon legislators who concern themselves with appropriations for state highways and bridges. The importance of your work can only be measured by the success of the some 20,000 foster children in Pennsylvania who depend on you.

I focused my career on reforming laws and policies impacting abused and neglected children and youth. I spent twenty years in the U.S. House of Representatives, most of it on the Committee on Ways and Means that has jurisdiction over all of the major child welfare laws that will be discussed today. I was the principal staffer of the Adoption and Safe Families Act of 1997 (PL 105-89) as well as the Chaffee Independence Act of 1999 (PL 106-169) to name just two. I received my doctorate from Columbia University, did a post-doctoral Fellowship at the University of Michigan and then went to Capitol Hill as a post-doctoral Fellow under the auspices of the American Association for the Advancement of Science and the Society for Research in Child Development

My testimony will define the policy problem in Pennsylvania in terms of the numbers of older youth coming into and leaving the system, the placement decisions that agencies and courts make that negatively impact older youth, and the hardships these “emerging adults” endure. Finally, I will highlight recent federal initiatives that present opportunities for Pennsylvania to change the trajectory of foster youth who have reached the age of 18. And close by leaving you with the decisions that the state will have to make to take advantage of these opportunities.

I would like first to let you know that there are calls from academic circles to advocacy groups that a conversation in the context of so called “independent living for youth at 18 “ is based on the wrong premise (Anderson, personal communication, 2011). Emerging research examining the adolescent brain, cognitive and psychosocial development indicates that while older teens are moving toward independence it is inappropriate to believe that independence can be achieved at 18 in foster care or out (Avery, 2010). As you know, the transition to adulthood is longer, far more intricate, with a wider range of life choices in an era of financial uncertainty than our journey as baby boomers. As policy makers and as parents it is at our own peril to expect any 18 year old to have their “wits about them” and to be able to live without financial, social-emotional, educational or vocational support.

Age, Entrance and Exits into Out of Home Placement in PA

Data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) for Fiscal Years (FY) 2004-2007 report the number of children in foster care in Pennsylvania to be consistently around 20,000. With the numbers of children in out of home placement decreasing nationwide it is not too surprising to see that statewide for the end of FY 2009 the number in care has dropped to 16, 878 (National Kids Count, May 2011).

What does surprise me is that if you take out the high population of babies under the age of two entering foster care in Pennsylvania, it is the youths ages 12 to 17

that are coming into care at higher rates than the 3 to 11 year olds (AFCARS, 2004-2007). Interestingly, in looking at the ages of children substantiated for maltreatment, almost one -half are youths between the ages of 11 and 16 plus years old (AFCARS, 2004-2007). In fact, recent data collected by the Pennsylvania Partnerships for Children (over 4/1/09-3/31/10) indicate that 20.3% of children in out of home placement were 16 and 17 years old.

AFCARS 2007 data show youth start exiting Pennsylvania's child welfare system via emancipation at 15 years of age and peak at 17 years with 14% exiting using this route. Such a high rate of emancipation at 17 years old is a tremendous increase from the 8% that was reported only three years earlier. In fact, National Kids Count 2009 data indicate that for the 16 to 20 age group Pennsylvania exits more youth (4,053) than New York (3,684). The bottom line on emancipation in Pennsylvania shows that in 2010 more children left foster care via this route than in the previous year.

I would like to point out to the Committee that emancipation is not the only exit state older youth take to get out of the system. AFCARS 2007 data reports that 930 children left Pennsylvania foster care for "other reasons including transferred, running away and death." The Pennsylvania rate for this category is almost twice as high as the national rate (9% vs. 5%). I would urge this Committee to closely examine the high numbers of youth that leave foster care via running away and death.

Pennsylvania's placements for older youth

An issue related to the high numbers of children ages 12 to 18 in Pennsylvania's foster care system, are the numbers of these children placed in "another planned permanent living arrangement" or APPLA. In FY 2008 some 12% children ages 12 to 18 had the placement goal of "another planned living arrangement" (AFCARS, 2008). Other sources double the number to 24% of youth in Pennsylvania with a goal of APPLA. According to The Porchlight Project (2010) nearly half of foster

children are placed in group homes and institutions. There is no statutory definition of APPLA in the Adoption and Safe Families Act (ASFA, PL 105-89) but Congressional intent can be found in the Committee Report (H.Rpt.105-77) of the Committee on Ways and Means, United States House of Representatives. The Committee explained that it intended the 12- month permanency hearing to be responsive to children's needs for permanence and stability. It further clarified the expectation that "final permanency decisions" would be made.

Congress intentionally deleted "nonrelative long term foster care" from the desired list of permanent placement outcomes because foster care is intended to be a temporary placement. Lawmakers used the term "planned permanent living arrangement" to distinguish such arrangements from serial placements in different foster homes or facilities over an indefinite period of time. The statute clearly enumerates a preference (but not a hierarchy) for family reunification, adoption, legal guardianship, or placement with a fit and willing relative as permanent outcomes for foster children. The use of "another planned permanent living arrangement" or APPLA must be justified with a "compelling reason" for being in the child's best interest. The regulations assert the necessity for states to document a "compelling reason" for ruling out the enumerated permanency options (stated above) before choosing APPLA. It is clear from the committee report, the regulations as well as the statutory language in ASFA that Congress intended "another planned permanent living arrangement" to be used only as a last resort. Further, no single reason such as age can be used to assume that an entire category of foster care children should be placed in "another planned permanent living arrangement".

I urge this Committee to examine the routine use of APPLA; this is a violation of federal law. The numbers of youth ages 12-18 with this placement should be reviewed on a case -by -case basis to ensure that there is indeed a compelling reason for this particular placement. This issue has a fiscal impact with an estimated

average cost of group home/institutional care in this state at \$167 per day and an estimated average cost of foster family care \$57 per day.

The central question for this hearing is what happens to the more than 75% of children in this state that enter into care older than 12 and exit via “emancipation”? (AFCARS, 2004-2007) The term emancipation refers to foster youth aging out of the system at 18 without a safe, supportive, permanent family. Pennsylvania is one of the top ten states in the nation for emancipating some 970 youth in 2009 (National Kids Count, 2011). Eight percent for all exits out of foster care in this state are via aging out (AFCARS, 2008). Are these children “emancipated” such that they are now free to live their own lives? Or, have these children “aged out” of the child welfare system “too old “ at age 18 to live with nurturing families (adoptive, foster or legal guardians) or to receive supportive services? (I urge you to see the video “From Place to Place” that features how two youth fare on their own: “emancipated” but not free; “aged out” but in need of nurturing families, and no doubt still in need of services. www.fromplacetoplacemovie.com. You will recognize the important contributions of Sandy Moore and Justice Max Baer).

Post foster care functioning of older youth

There is an abundance of research, some of it longitudinal that is overwhelmingly consistent in the finding that former foster youth face high rates of homelessness and joblessness, are both perpetrators and victims of crime, in need of substance abuse and mental health treatment, lack stable housing and basic medical care (see the research of Mark Courtney at Chapin Hall). Former foster youth age 19-30 experience post traumatic stress disorder at a rate that more than rivals U.S. War Veterans (Pecora et al., 2005) These youth are socially isolated, live in communities that have high rates of crime, teen pregnancy, and truancy. But what is particularly striking is not simply the economic impoverishment these former youth experience but add to that the psychosocial impoverishment that stems from the lack of commitment from caring supportive adults.

Increasingly, the concept of permanency in child welfare is being re-defined as more than achieving a stable placement. Permanency is achieved when a stable, life-long commitment is made that will promote emotional and psychological well-being and encourage the development of a network of social contacts, friends and family alike. (Frey and Greenblatt, 2005) Typically, youth leave the foster care system without having emotionally connected to either their biological or foster families or had the opportunity to make social connections outside of the system.

In short, the evidence is in: youth leaving foster care at 18 are not ready to face the real world and if pushed to do so will not be able to make it on their own. In Pennsylvania despite the recent mandate for all counties to run Independent Living Programs and the availability of Chafee Education and Training Grants the fact remains that when some 900 -1,000 youth leave foster care every year the chances are they will not make it (Courtney et al. 2005).

New Federal Opportunities for Serving Youth Aging Out of Foster Care

There are 4 federal funding streams that Pennsylvania ought to consider: (One), the Chafee Foster Care Independence Act (PL 106-169) that allows states the option of extending Medicaid for any youth under the age of 21 who left foster care after her 18th birthday, or any “reasonable category” of those youth; (Two), The Fostering Connections To Success and Increasing Adoptions Act (PL 110-351) that establishes Family Connection Grants that provide \$15 million for each year of a three year grant; (Three), the recently enacted Child and Family Services Improvement Act (PL 112-34) extends the authority of DHHS to waive certain requirements under Titles IV-B and IV-E to conduct demonstration projects; and (Four) PL 110-351 also includes a state option to extend Title IV-E reimbursable foster care payments to children up to the age of 19, 20 or 21.

The Chafee Foster Care Independence Act

Congress created a new optional Chafee Medicaid eligibility pathway for “independent foster care adolescents” who were aging out of the child welfare system. The law defines these youth as individuals under the age of 21 and who were in foster care under the responsibility of the state on their 18th birthday. While the federal definition of aging out youth represents a potentially broad category, the law allows states to limit eligibility based on income or resources and whether or not the adolescents had received Title IV-E funding while in care. Some 20 states have taken the “Chafee option.”

Family Connection Grants

The Family Connection Grants authorize DHHS to make grants to State or local public welfare agencies to help children in foster care or at risk of entering foster care connect or reconnect with birth parents or extended relatives. The funds must be used: to establish programs such as the kinship navigator program; to support intensive family finding; to provide for family group decision making; and, to enable parents and children to stay together in residential treatment centers that provide a full range of services (Green Book, Ways and Means Committee, 2008).

Funding for 30 new Family Connection Grants is available each fiscal year through 2013. These grants provide \$15 million for each fiscal year, up to three years with matching funds are required. Grantees must provide no less than 25% of the total approved grants costs in years one and two and in year three 50%. Pennsylvania should explore applying for this grant. It appears to me that the state is already implementing at least two of the required activities such as family group decision-making and intensive family finding efforts.

The Child Welfare Waiver Projects

Each year over the next three years (FY2012-FY2014) ten states will be eligible to apply for waivers of some requirements under Titles IV-B and IV-E of the Social Security Act. These titles cover discretionary child welfare services and mandatory

foster care maintenance, administration and training funds. These demonstration projects are required to be cost-neutral, as determined by DHHS, to the Federal Government and must include an evaluation component. Some 23 states have implemented a wide range of demonstration projects including flexible funding and capped IV-E allocations to local agencies which allowed for funding of innovative service models and for the development of managed care payment systems. Findings from most states showed that access to services was increased under the waivers. The result indicated that strong leadership at the state level was necessary for successful implementation.

Not all states experienced success in the waiver projects. There is difficulty in creating the state's baseline to project what the state will need over the next three years. In a county administered state the extent of funding that will be shared with the counties needs to be carefully calculated. The Department of Health and Human Services has been involved with these waiver projects for over fifteen years and I believe has the experience now to guide States in the process. Pennsylvania should consider applying for the newly authorized waivers that are now three year and not five year demonstrations and no longer require that evaluations use random assignment.

Just one example shows why Pennsylvania needs to reconsider its financing design. Pennsylvania has some 900 to 1,000 youth aging out each year. The Federal Chafee Independent Living Program is only \$140 million of which \$5 million goes to Pennsylvania to provide for Independent Living services. These services are limited in scope and duration and county administered. The state spends three times more on Independent Living services (\$15 million) than the federal government and counties add another \$2.5 million in local funds. To serve youth leaving foster care at 18, the costs are overwhelming state funds at 60%, with the counties paying 20% and the federal funds at 20%.

The Extension of Foster Care to Age 21

Pennsylvania is to be applauded for being one of only three states to receive early approval from the federal government for amending its state plans to be able to claim IV-E funds for children who move to permanent relative care. This opportunity is afforded to the state from PL 110-352. However, this law included provisions targeted at older youth that the state has not embraced. Specifically, Pennsylvania has the opportunity to extend foster care for older youth beyond the age of 18 up to age 21 with the feds paying 55% and the state and counties paying 45%. The state may elect to increase coverage to 19 or to 20 or to 21 for the youth who meets certain education or employment responsibilities.

By not extending foster care past the age of 18 the state will continue to deny IV-E federal maintenance dollars for coverage in the following circumstances. The youth is: on track to graduate HS or get a GED; enrolled in college or vocational program; has disabilities or special needs; receiving mental health or substance abuse treatment; pregnant or parenting. Even if the Court determines that it is in the youth's best interest to stay in foster care past 18 or if the youth petitions the court to remain in care the state denies coverage under IV-E maintenance funds (Dworksy & Havlicek, 2009)

There is one circumstance where the state allows a youth to remain in care past 18. "Youth was adjudicated dependent before 18th birthday, is engaged in a course of instruction or treatment and who requests that the court retain jurisdiction until the course has been completed." (Casey Family Programs Data Base, 2010 www.childwelfarepolicy.org) It is unclear what "course of instruction or treatment" refers to secondary or post secondary instruction. Treatment is not defined so that is also open to interpretation. When Pennsylvania does extend foster care beyond 18 it is not doing this using IV-E foster care entitlement funding.

Chapin Hall estimates that extending foster care to age 21 will outweigh the costs to government by a factor of 2 to 1 (Peters, Dworsky, Courtney and Pollack, 2009).

This cost estimate is arrived at, in part by, taking these factors into account: the average per day cost of extending foster care for two years until age 20; and, the average public assistance costs that could be avoided if youth stayed in foster care. The authors make it clear that policymakers at the federal, state and county level have to make decisions by examining the Title IV-E reimbursement rate for foster care maintenance, the percentage of IV-E eligible youth and how the cost is shared between the state and the country (Peters, Dworsky, Courtney, Pollack, 2009).

The design and policy decisions that a state makes will no doubt determine the cost of extending foster care to 21. Decisions will have to be made about the length of time to extend care, how to handle re-entries into care (currently Pennsylvania denies re-entries into care after 18), and what to do with youth that are not IV-E eligible and therefore, not covered under the option.

Finally, policymakers need a clear picture of the current state of funding for youth 18 and over and the costs to the federal, state and local government. Priorities will have to be established, gaps in current programming will have to be noted, and funding schemes will have to be designed. To date, six states have implemented the extension with some five in the pipeline. It can be done.

Thank you.

