



CHILDREN, FAMILIES, AND THE COURTS



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Interstate Placements: Safeguarding Ohio's Children Examining the "New" Interstate Compact for the Placement of Children, Federal, & State Legislation Impacting Children

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The Interstate Compact on the Placement of Children (ICPC) was established as an agreement among states to coordinate the movement of children who cross state lines for the purpose of placement in foster care, adoptive homes, group homes, residential treatment centers, or on a trial basis with a parent or relative. Throughout its history, the Compact has inspired debate, not over its intent, but rather in how the Compact is acted upon by states that agreed to enact it.

The need for a Compact to ensure protective services to children in an interstate placement was recognized as early as the 1950's. Intending to address specific supervisory problems, a group of social service administrators initiated an informal examination of issues affecting children who were placed out of state for foster care and adoption. They found:

- The lack of importation and exportation statutes within states undermined states' capacity to enforce voluntary interstate agreements; there were no consequences if an agreement was broken. Because a state's jurisdictional authority ends at its border, there was no way to require an out-of-state agency or individual to comply with provisions protecting children from harm.
- Disparate child welfare practices caused placement delays, ultimately denying children the opportunity for timely permanency. In order to shorten the length of time required for interstate placements, more uniform procedures were needed between states.

- There were no clear "best practice" instructions for timely completion of home studies and placements for children being placed out-of-state.
- There were neither uniform policies to ensure supervision of children in an out-of-state placement nor clear safeguards against further abuse/neglect in placement.

The Interstate Compact on the Placement of Children was drafted as a response to these issues, to ensure that children placed out-of-state were afforded the same protections as children placed in-state. The original Compact contained ten articles that defined the types of placements and placement agencies subject to law, the procedures to be followed in making an interstate placement, and the specific protections, services, and requirements enacted by the law. In 1960, New York became the first state to enact the Compact; by 1990, the ICPC was ratified by all 50 states.

Unlike most federal child welfare regulations, administrative responsibility for Compact oversight was not assigned to a federal agency. The Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC) was established in 1974 and given authority under ICPC to "promulgate rules and regulations to carry out more effectively the terms and provisions of this compact." The AAICPC is an affiliate of the American Public Human Services Association (APHSA) and consists of members from all 50 states, the District of Columbia and the U.S. Virgin Islands.¹

Changes to the ICPC

In early 1996, a Joint Committee consisting of the National Association of Public Child Welfare Administrators, the AAICPC, and the National Council of Juvenile and Family Court Judges, convened to address systemic delays in interstate placements and to look at best practice models for completing ICPC home studies. This Joint Committee disseminated ten recommendations and a priority regulation outlining judicial authority and reaffirming the need for joint support between the courts and child welfare agencies in expediting interstate placements. The AAICPC passed the priority regulation related to Article VII (Regulation 7) that provides for priority handling of urgent cases, primarily by facilitating placements of children with relatives, and adopted the recommendations at its Annual Meeting in April of 1996. The National Council of State Human Service Administrators of the American Public Welfare Association approved these recommendations and asked that state and local public welfare agencies work to implement the recommendations and the priority regulation. These became effective on October 1, 1996.

In 2004 APHSA adopted a policy resolution to rewrite the ICPC. A development and drafting team was assembled to represent a diverse group of key stakeholders devoted to safety and permanency for children. This team was charged with identifying issues, providing recommendations for addressing the identified problems, and drafting new compact language. From December 2004 through September 2005, two drafts of the rewritten compact—entitled “the Interstate Compact *for* the Placement of Children”²—were circulated for review. Comments and concerns of the stakeholders were assembled, and in June 2005 a memorandum was sent to state human service administrators outlining unresolved issues and asking for position statements relative to each issue. The final draft of the compact (that took into consideration the positions outlined by the administrators) was finally sent out for approval in November 2005. In March 2006, APHSA received the financial support needed to begin assisting states in getting the new compact adopted nationally.

The Interstate Compact for the Placement of Children may begin to take effect as early as July 1, 2007, or upon passage of the compact by the 35th state, whichever is later. Once the 35th state adopts the “new” compact, none of those states will be party to the “old”

compact and these states will work together on developing the rules and regulative processes that participant states must follow. These relationships will be limited to states that also have passed the new compact. However, the “old” compact’s rules will remain in effect among both old and new compact states for the first *twelve months* until new rules can be adopted. This will allow for interstate placements to be made in both old and new compact states during that twelve-month period. If a state has not joined the new compact after the transition period, there would be “no meaningful way to place children in new compact states and no means to prevent those states from sending children to such a nonmember state without permission, rules, or notice.”³

The “Old” Compact

The original Interstate Compact *on* the Placement of Children (adopted in 1960):

- Had been compromised by individual states’ self-directed interpretations of interstate placement policies and practice. There no longer was a shared understanding of the procedures affecting placements of foster and adoptive children.
- Was not able to hold states accountable for violating the mutually agreed upon compact rules.
- Had problems related to the timeliness of adoptions due to delays in home studies and completion of training for adoptive parents.

The “New” Compact

The new Interstate Compact *for* the Placement of Children:

- Replaces problematic language from the 1960 compact and spells out the authority for the compact to exist.
- Enables states to enforce the terms of the compact including provisions that provide tools to secure state compliance.
- Includes collection of standard data, an information system to assist with timely information sharing among states, training, and technical assistance.
- Clarifies courts’ and judges’ authority to retain jurisdiction over children placed out-of-state.
- Better defines the home study process.

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How Can Judges Make the ICPC Work Better

by Judge Stephen W. Rideout (ret.)

If I had been told during my first 12 years on the bench that I could do something to make the Interstate Compact on the Placement of Children (ICPC) work better, I would have laughed. What I knew about the ICPC was that it was: (1) a children services problem, and (2) the reason that children were not able to move from one state to the other in a reasonable time period. When the children services agency gave reasons at review and permanency hearings as to why the plan of placing a child with a relative out of state was not moving forward, I was likely to accept the excuses and continue the case for another six months.

We know there is change coming to the ICPC and expect that many of the factors that contribute to delay will be addressed through new federal and state legislation. But what are we as judges to do until the new ICPC becomes law? What are we to do while the bylaws for the new ICPC and the rules are established and implemented? What are we to do after the new ICPC and its rules become the law? All of this could take years to accomplish, and children still need to be moved through the ICPC process now.

My relationship with and understanding of the ICPC changed in 2001. During a meeting held by the American Public Human Services Association, I met the person in charge of the interstate office for my state (Virginia). Until that time, I had known of her, but really didn't know her or the challenges that she faced in making the ICPC work. It was clear that she wanted the ICPC to work better and that she was prepared to make that happen. For me, recognizing that we shared both frustration and goals represented the beginning of change. What I began to learn back in 2001 is that, while judges do not have any say in the final decision by a receiving state as to whether a child will be permitted to come to that state, we can impact how quickly that decision is made.

The ICPC process is somewhat slow even on a good day. Delays are inherent in the process; but the process cannot even begin until the court enters an order that places a child in foster care. Those orders can be delayed for days, weeks, or months depending on the state or the court; so you as judges or magistrates can take the first step and improve the process by entering orders on the day of the hearing when the child comes into care.

Does the agency lawyer prepare the order? If so, have them bring the proposed order to court with them. Is that the job of someone else? Set up a process so that the order is entered right away. Once the order is entered, make sure that the clerk's office provides a copy to the social service caseworker so that the agency can initiate the interstate process immediately if the possibility of interstate placement arises.

If interstate movement is possible and the child is entitled to be a "Priority Placement" under Regulation 7 Section 6 (a) of the ICPC, a judge can enter an order to that effect that should cause the child's interstate process to move more quickly. As part of the expedited movement of the child, the judge in the sending state may contact the judge in the receiving state to request assistance.* I hear often from judges that Regulation 7 orders don't make a difference. When I ask them if they have made a call to the other judge, most don't even know that it is allowed. They haven't read the ICPC or the Regulations.

Once the ICPC order is entered, the process moves to the child welfare caseworker who prepares the paperwork and sends it to the state ICPC office for review. From there, when all of the paperwork is in order, it goes from the sending state ICPC office to the ICPC office in the receiving state. The paperwork undergoes another review and, if in order, proceeds to the local agency in the receiving state where the child is scheduled to move. There it is assigned to a caseworker for the home study to be performed.

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As you can imagine, the possibilities for delay in this process are numerous including, the opportunity for files to sit on the desk of each person in the line who must handle them and the opportunity for the file to sit at each step while additional information is collected. The final step in the process is the home study; once it is completed, the process reverses itself, moving the file and the receiving agency decision back to the sending state, with the possibility of delay again looming at each step.

How can judges and magistrates impact this process and make it work better?

- Get to know your state's ICPC administrator. I did, and her assistance has been invaluable to me over the years. Have their contact information available so that you can call or email them when you have a question or concern about a case. Ask the administrator to come and make a presentation about the ICPC to the court, agency, and lawyers in your community.**
- Ask your state ICPC office to prepare a form transmittal letter that contains a list of all of the documentation that is needed to process the case. They can provide a copy of that form letter to each agency and caseworker who then can use it as a checklist for what needs to be included in the ICPC package.
- Judge(s) in a sending state should reach an agreement with the judge(s) in the receiving state to work together as allowed under Section 5 (a) of Regulation 7. In doing so for cases that are not Regulation 7 cases, judges should rely on Resolution 19 passed by the Conference of Chief Justices in July 2004.***
- Shorten the time that hearings are continued so that you receive information sooner about the progress of the case. *I had an ICPC case involving a child who had come to visit his father for the summer and was in the legal custody of his mother in another state. He was beaten by his father and removed and placed in foster care. While there was no reason to suspect that his mother would not be an appropriate caregiver for him, our agency wanted to be sure and was required to go through the ICPC process. As this child was entitled to a Regulation 7 order, one was entered on the day the child came into care. I then continued the case for an in-court review 30 days away with a progress report due from our local agency. While the home study was not completed in the receiving state, we were assured that it would be done soon. That resulted in a 2-week continuance and a final approval from the receiving state that allowed us to return the child home.*
- Respond to requests for help with ICPC placements. Even while I, as a judge in a receiving state, do not have a case before me regarding a child awaiting placement, I can respond to a request for help from my judicial colleague in another state. *I was called by a judge in another state seeking assistance in the matter of two children who were pending ICPC approval in my state. Could I help? With some information from the judge, I was able to email my local agency and our state ICPC administrator to ask for assistance for my judicial colleague. Because of my relationship with both, I received answers within an hour; and by the end of the day, the confusion about the movement of the two boys was ended and they were on their way to their new adoptive family. Had I not helped my colleague, how long would it have taken to resolve the problems? Hours? Days? Weeks? We will never know but we do know that the final decision was made in this matter sooner rather than later. That is what we are able to do for these cases, help move the decision making process along, whatever the decision may be by the agency.*
- Know your colleagues. How do you know who the judge is in the receiving state? You can certainly go to state judicial websites where some information may be available to help. Another way to get help is to go to <http://cosca.ncsc.dni.us/StateCourtPointsofContact.html>, which contains the names and contact

information of people in court administrators' offices in many of the states who will be able to help you locate the judge in their state who can be a resource for you.

- Train attorneys and CASA volunteers on the ICPC. If the lawyers for the parents and children as well as the CASA volunteers are trained about this process, they can stay on top of it and can bring the case back to the attention of the court for further action.
- Use concurrent planning. There is no reason to delay the ICPC process just because the goal for the child is to return the child home. If the agency is not successful in that effort and has not begun the ICPC process, then the child must wait in foster care for that to happen. Starting the ICPC process early, even if it is not ultimately used, benefits the child and provides him/her with a greater likelihood of permanency sooner. To do that you need to determine who the relatives are and where they live. Do this early in the process rather than waiting. Don't let up until you have answers to your questions about who are family members and where do they live.
- Make sure you know the legal impact of terminating parental rights (TPR) for a child who might be moving to a relative placement in another state. Be sure that your TPR won't sever the child's legal relationship with his relatives under the laws of that other state.

These are just a few simple ways to make the ICPC process work better for the children in your state. Try them and see what difference they can make. If you have an ICPC problem and don't know where to find an answer, contact your ICPC administrator. If that does not work, contact me. While I may not have a solution, I may know where to go to find one.

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* Regulation 7 Section 5 (a) The Guide to the Interstate Compact on the Placement of Children (2001) APHSA

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*** Conference of Chief Justices and Conference of State Court Administrators. "Resolution 19, In Support of Increased Judicial Involvement in Inter-Jurisdictional Movement of Children Through the Interstate Compact on the Placement of Children (ICPC)." Adopted by the CCJ/COSCA Courts, Children and Families Committee, July 29, 2004. <http://ccj.ncsc.dni.us/ChildWelfareResolutions/ICPC.pdf>

Judge Stephen W. Rideout (ret.) is currently a consultant to the National Council of Juvenile and Family Court Judges (NCJFCJ), states, and other national organizations on child welfare and juvenile justice matters. He was a member of the Board of Trustees of NCJFCJ (2001-2004) and also a member of the Advisory Committee of its Permanency Planning Department (1999-2004). He currently advises NCJFCJ's Interstate Compact on the Placement of Children Work Group (2005-2007).

Compacts vs. Uniform Laws

Uniform Laws

Uniform Laws were developed as a way to unify individual state laws across state lines. However, Uniform Laws are limited by design. A state that adopts a Uniform Law with a slight difference from the way in which it was proposed will not be held liable for the change in the law's execution. In the same way, a state's decision to unilaterally change a uniform law after enactment does not constitute any type of violation for which the state may be held accountable. States with the "same" uniform law cannot enforce identical actions under the law in another state.

The objective of a Uniform Law can be damaged by:

- Amending a uniform statute so that it is no longer uniform; or
- Introducing additional provisions when the act is being initially considered by the legislature; or
- Courts in different states that can and do interpret identical provisions differently.

Interstate Compacts

Interstate compacts are not uniform laws or administrative agreements but are binding legal contracts with their terms and conditions controlling – superceding – state considerations. As contracts, interstate compacts are formal agreements between states that have the characteristics of both statutory law and contractual agreements. Any state law in contradiction or conflict with a compact agreement is unconstitutional. The terms of the compact take precedence over state law even to the extent that a compact can trump a state constitutional provision.

- A state cannot independently reject an interstate compact except as agreed upon by the parties.
- Compacts are considered contracts because of the manner in which they are enacted.
- An interstate compact is primarily used when dependability is required and is most appropriate when making permanent arrangements among states.

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- Specifies that the "sending state" is responsible for foster care costs of a child placed in a "receiving state."
- Creates an "Interstate Commission for the Placement of Children" which will consist of a commissioner from each state (appointed by the executive head of the state human services administration) to provide oversight over the administration of the ICPC.

The New Federal Law *P.L. 109-239*

In addition to developing the "new" compact, federal legislation was introduced concurrently (HR 4504, the Safe and Timely Interstate Placement of Foster Children Act of 2004) to encourage states to improve protections for children and hold them accountable for the safe and timely placement of children across state lines into foster and adoptive homes.

*The Interstate Compact for the Placement of Children – Approved Language **

Article I: Purpose

The purpose of this Interstate Compact for the Placement of Children is to:

- A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.
- B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.
- C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.
- D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.
- E. Provide for uniform data collection and information sharing between member states under this compact.
- F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.
- G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.
- H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

* The approved language of the “new” Interstate Compact for the Placement of Children is available online at: <http://www.aphsa.org/Policy/icpc2006rewrite.htm>.

Although the U.S. House of Representatives passed this legislation in 2004, it failed in the Senate and was criticized for its inflexibility and limitations in several key areas. Critics of H.R. 4504 were concerned about the possibility of increased adoption disruption because of delayed home studies and potential delays due to incomplete training for adoptive parents.

In response to stakeholder criticism of H.R. 4504, new legislation was introduced in 2006. The “Safe and Timely Interstate Placement of Foster Children Act of 2006” (P.L. 109-239) is very similar to the earlier legislation but contains more flexible provisions regarding home studies and training than the 2004 version.

President Bush signed the P.L. 109-239 into law on July 3, 2006. It amends Titles IV-B and IV-E of the Social Security Act and adds a federal overlay of requirements onto the existing ICPC. The four “goals” of this legislation are as follows:⁴

“It is the sense of the Congress that—

(1) the States should expeditiously ratify the revised Interstate Compact for the Placement of Children recently promulgated by the American Public Human Services Association;⁵

(2) this Act and the revised Interstate Compact for the Placement of Children should not apply to those seeking placement in a licensed residential facility primarily to access clinical mental health services;⁶

(3) the States should recognize and implement the deadlines for the completion and approval of home studies as provided in section 4 (see Home Study Related Changes on pg. 8) to move children more quickly into safe, permanent homes; and

(4) Federal policy should encourage the safe and expedited placement of children into safe, permanent homes across State lines.”

Home Study Related Changes

P.L. 109-239

Two new Title IV-E State plan requirements have been added to the Safe and Timely Interstate Placement of Foster Children Act of 2006. Under section 471(a)(25), a state is required to have a procedure in effect for the “orderly and timely interstate placement of children.” States are required to complete and report on foster and adoptive home studies requested by another State within 60 days:

- “(A)(i)within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract—
- (I) conduct and complete the study; and
 - (II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child;”

Limiting the timeframes for completing the required home study for an interstate placement is seen as one solution to delayed adoptions. This allows for children to be placed in a timelier manner, while accommodating enrollment issues that may be encountered for some foster/adoptive parenting classes.

The new legislation includes additional measures for states that fail to comply with the 60-day home study timeline through no fault of their own (such as a failure of a Federal agency to provide the results of a background check). These states have an additional 75 days to achieve compliance as long as the State “documents the circumstances involved and certifies that completing the home study is in the best interests of the child.” This essentially gives states four and a half months to complete a home study if they can provide documentation explaining the delay. Additional caveats regarding home study requirements included in P.L. 109-239 are:

- States receiving a home study have 14 days from receipt of the report to make a decision that reliance on the report would be contrary to the welfare of the child; and

Home Studies for Adoption and Foster Care Placements

A home study is required for an individual or couple to adopt in all 50 states and the District of Columbia, and must be completed on all prospective placements of children across state lines. There are specific guidelines and conditions that must be met in completing a home study, however, there is no standardized format required for all states and/or agencies.

The Safe and Timely Interstate Placement of Foster Children Act of 2006 defines the term *home study* as “an evaluation of a home environment conducted in accordance with applicable requirements of the State in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child’s safety, permanency, health, well-being, and mental, emotional, and physical development” (P.L. 109-239, Section 473B (g)(1)).

Home studies usually are divided into two parts:

1. A training process, generally taking between 10-20 hours, which focuses on education and preparation to foster a child and/or adopt.
2. A series of meetings with a child welfare caseworker (or a caseworker from an approved private foster/adoption agency) used for information gathering. Prospective parents are asked to provide documents including birth certificates, marriage license, child abuse clearance, health records, criminal background check reports, and personal references.

- States may contract with private agencies to conduct home studies.

Within 12 months of the enactment of P.L. 109-239, HHS is required to submit a report to Congress detailing:

- How frequently the 75-day grace period is needed to complete a home study;
- The reasons given for needing the extension;
- The degree to which this extension resolves the issue(s) cited by the State for needing the extended compliance period; and
- Any actions taken by States and relevant Federal agencies to resolve the need for the extended compliance period.

States should be vigilant when addressing the home study requirement under the new ICPC legislation since the time limits will fall under state Title IV-E plan requirements. Participating states will be required to provide documentation indicating that timelines are being met and will either be rewarded with incentive payments for timely home studies or possibly penalized for failing to meet the required timelines. The penalties associated with failure to meet the time requirements can include a reduction in a state’s IV-E funding. Without further clarification, there are two means by which a state may be monitored for compliance with the new time limits: (1) the Child and Family Services Reviews may be used as a vehicle for examining state compliance; or (2) HHS may institute a review of its own and impose penalties for noncompliance. States are being prompted by Federal policy to “recognize and implement the deadlines for the completion and approval of home studies” to expedite the interstate placement of children into safe, permanent homes.

Incentive Payment Program

P.L. 109-239 also includes a three-year incentive payment program to promote a quick turnaround of interstate home studies. Under the new legislation, *Sec. 473B, Timely Interstate Home Study Incentive Payments* is amended with the following:

“(1) IN GENERAL- The timely interstate home study incentive payment payable to a State for a fiscal year shall be \$1,500, multiplied by the number

of timely interstate home studies attributed to the State under this section during the fiscal year.”

This is true as long as the total amount of payments requested by states does not exceed \$10,000,000 in each fiscal year starting in 2007 and ending in FY2010 (Section 473B of the Social Security Act is repealed October 1, 2010). States receiving incentive payments may only use the money to provide services to children and families.

A state is eligible for the incentive payments if

- The State has a plan approved under Sec. 473 B. Timely Interstate Home Study Incentive Payments for the fiscal year; and
- The State is in compliance with data requirements outlined in P.L. 109-239 (e.g., the total number of interstate home studies requested for children in foster care, what other States were involved, the number of timely home studies completed, the identity of “receiving states” and verification of the data by both sending and receiving states).

Ohio Senate Bill 238

Ohio is the first state to adopt the new Interstate Compact for the Placement of Children. Ohio ratified the APHSA endorsed compact as part of OH SB 238 (signed into law June 21, 2006). As part of a regular 5-year rule review, ODJFS recently revised Ohio’s ICPC rules to better organize activities and more clearly specify the responsibilities of the receiving and sending agencies. In addition, SB 238 addresses issues raised in a review of Ohio’s adoption and foster care system conducted by the Ohio Department of Job and Family Services (ODJFS) in 2005. The ODJFS report found that “communications between public and private social services agencies are often insufficiently coordinated, state adoption guidelines are not consistently followed, and statutory definitions of child abuse, neglect and dependency are ill-defined.”

After the 35th state ratifies P.L. 109-239, ODJFS will revise the ICPC rules to reflect the new changes. ODJFS is also in the process of increasing staff in response to both the local SB 238 and the federal legislation, P.L. 109-239. Federal home study requirements (see pg. 8) which include incentives for home studies completed and

What Delays an ICPC Case?

Issues that have been identified as delaying an ICPC case are:

- Workload issues: child welfare workers often have high caseloads and are frequently called upon to deal with crisis situations that require immediate action.
 - Courtesy home studies for children *not* on their caseloads may not be a top priority;
 - The permanency process for children who have moved to a new state may be less of a priority than for children on a worker's caseload who are physically present;
 - Regular case reviews and court hearings often do not occur in a timely way for children who are residing in another state.
- Conflicts between policies and laws in sending and receiving states.
- Financing conflicts over which state pays for costs such as educational and medical expenses incurred by children placed across state lines.
- Miscommunication and poor communication between states.
 - Differences in states' child welfare system structures.
 - Missing paperwork.
 - Delays in obtaining home studies for placement approval, including delays due to criminal background checks.

A 1999 review by the Inspector General* of state implementation of the Interstate Compact on the Placement of Children cited four primary weaknesses of the "old" ICPC:

1. A lack of knowledge about the Compact among many judges, attorneys and caseworkers;
2. Placements taking place in violation of the Compact;
3. The lengthy process involved in ICPC placements, and
4. Differing state adoption laws that can hinder placements.

* November 1998. The Department of Health and Human Services; Office of the Inspector General. The Interstate Compact on the Placement of Children: State Structure and Process. Available online at <http://www.oig.hhs.gov/oei/reports/oei-02-95-00041.pdf>.

delivered within 30 days of a request, and penalties incurred for those taking more than 60 days to complete and deliver, will impact staffing needs.

ODJFS is proposing a number of regional requests for proposals (RFP) for public or private agencies to manage home study requests. The three groups of home study requests – relative studies, parent reunification studies and new foster home studies (see Multiple Child

Assessment, pg. 11) will require careful consideration of other impacting factors, such as ongoing service delivery, issues, and disruption considerations. Additional information pertinent to child welfare/dependency contained in SB 238 includes:⁷

- Information Disclosure and Falsification - SB 238 strengthens the requirement that families share information regarding prior involvement or a prior history with child welfare agencies.

AFCARS Data Provide a Picture of the Nation's ICPC Children

The Adoption and Foster Care Analysis and Reporting System (AFCARS) is a federal data collection effort that provides valuable information concerning permanency issues faced by foster and adoptive children under the custody of a state's child welfare agency. Each year, states submit child-specific data to the U.S. Children's Bureau on all children covered by the protections of Title IV-B and Title IV-E of the Social Security Act. The AFCARS databases are designed to support policy development and program management at both the state and federal levels. An analysis of AFCARS FY 2000 data* revealed that on any given day, approximately 5% of children in foster care are in an out-of-state placement.** The following table contains demographic information, including race and median age, as well as placement settings related to permanency and the reason for exiting the foster care system (discharge reason) for in-state versus out-of-state placements.

AFCARS FY 2000 Data Children in Foster Care**		
	Type of Placement	
	In-State	Out-of-State
<i>Demographics</i>		
<i>Race</i>		
White	41%	37%
Black	39%	49%
<i>Median Age</i>		
	10.4 years	11.9 years
<i>Placement Setting</i>		
Relative Foster Home	25%	42%
Pre-Adoptive Home	4%	11%
<i>Reason for Discharge</i>		
Reunification	60%	22%
Adoption	14%	51%

* Information contained here is summarized from newsletter article in *Permanency Planning Today* released by the National Resource Center for Foster Care and Permanency Planning at the Hunter College School of Social Work. "Inter-State Placement: Impact on Time to Permanency for Children in the Public Foster Care System." Summer 2002. Maza, Penelope L. Ph.D.

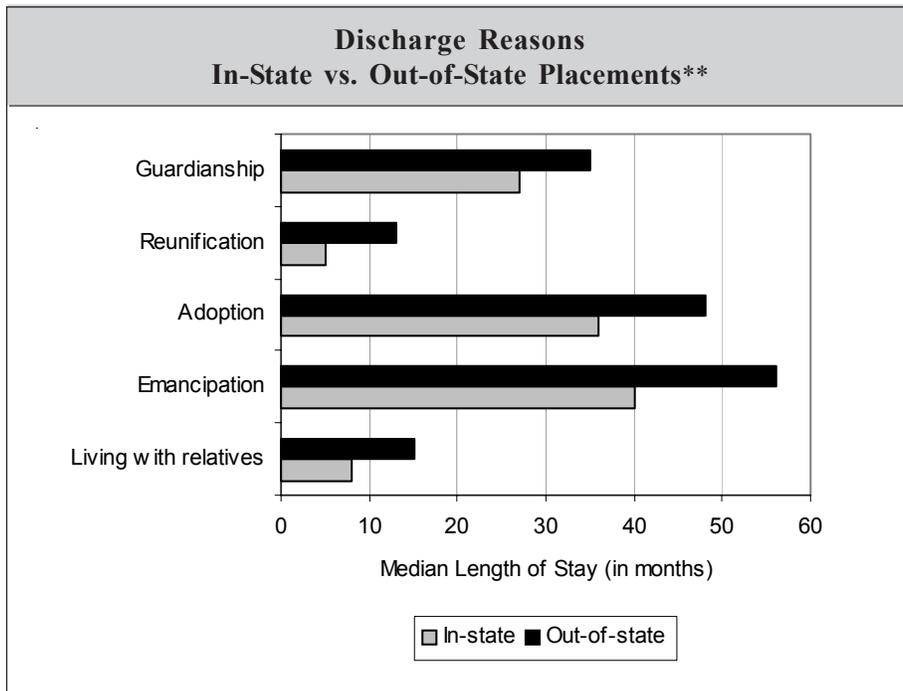
** On September 30, 2000 there were 524,000 children in foster care, of which 22,000 were in out-of-state placements. Of the 258,000 children who exited care during FY2000, 12,000 exited from out-of-state placements.

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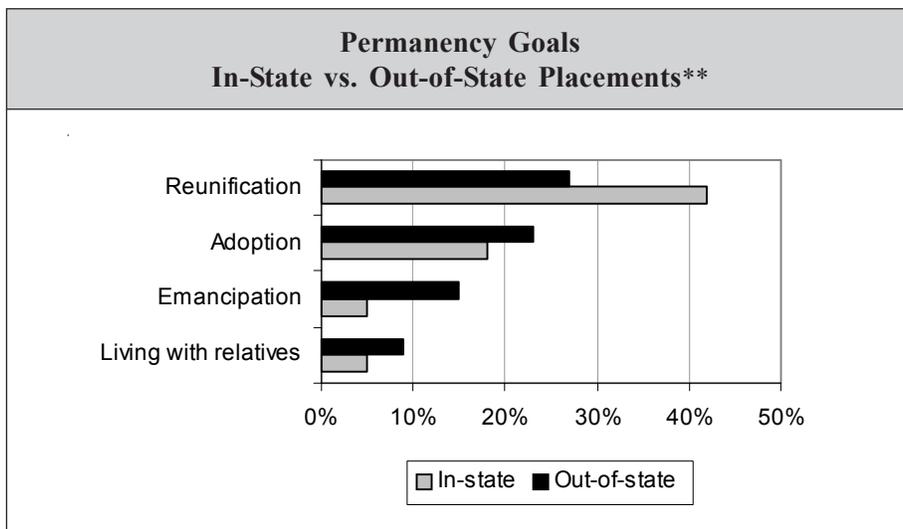
- **Multiple Child Assessment** - SB 238 requires a multiple child assessment for families wanting to adopt with five or more children already in the home. The bill ensures that issues specific to large families, especially those caring for children with special needs, are thoroughly evaluated.
- **Post Placement Visits** - SB 238 requires that an adoption assessor conduct a home visit every 30 days (beginning no later than seven days after placement), until the court issues a final decree of adoption.
- **Information Sharing** - SB 238 requires information sharing between adoption agencies and public child welfare agencies, (1) when an adoptive home study is initiated and (2) when planning is underway to place a specific child(ren) with a prospective adoptive family.

AFCARS Data Provide a Picture of the Nation's ICPC Children....Continued

Children exiting care from an out-of state placement had overall longer (median) lengths of stay in care than children in an in-state placement. The following chart shows lengths of stay for children in both in and out-of-state placements for the five most frequent discharge reasons (permanency decisions).



Children in out-of-state placements are similar to children in in-state placements regarding placement types and permanency. However, they are more likely to be in relative foster homes than children in an in-state placement and are less likely to have a permanency goal of reunification. The following chart shows the percentage of children whose permanency goals were reunification, adoption, emancipation, or living with relatives at the time they exited foster care.



ODJFS has been making internal rule and procedural changes that clarify the responsibility of Public Children Services Agency caseworkers in both their “sending” and “receiving” roles. Particular attention is being paid to ODJFS forms and the specific language required in court orders to be compliant with the ICPC. Court orders must contain specific language in order for placement packets to be complete and ensure a smooth transition to the out-of-state placement. The following illustrate some of the specific language/procedures required for ICPC court orders:

- Court orders pertaining to an out-of-state placement for children must have been ordered within the last 12 months;
- The court order must document the court’s jurisdiction over the case as well as establish custody of the child (temporary custody, permanent custody, etc.);
- Priority placement requests (Compact Regulation 7)⁸ must contain specific information in the court order to expedite an out-of-state placement. For a priority placement request, three copies of the court order are needed indicating one of the following types of legal dispositions: (OAC 5101:2-52-04)
 - Legal custody;
 - Temporary custody issued or extended;
 - Protective supervision;
 - Planned permanent living arrangement;
 - Permanent commitment;
 - Permanent custody as a result of execution of a ODJFS 01666 “Permanent Surrender of Child” (rev. 04/2006) (or applicable JFS form at the time of surrender);
 - Direct court placement.
- Court orders pertaining to *delinquent* children being placed in a residential treatment facility must contain the following language:
 - Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship; and
 - Equivalent facilities for the child are not available in the sending agency’s jurisdiction.

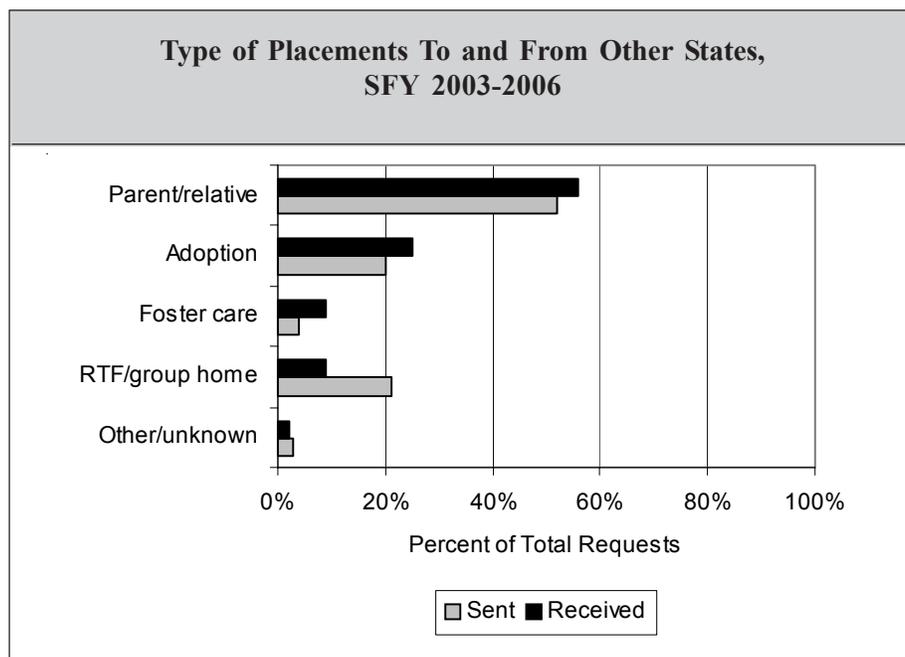
In Ohio, the most frequently cited reason why placements are delayed is an incomplete request packet. Without the necessary court orders, request packets will be held at the ICPC office until missing documentation is provided. Incomplete request packets may also be missing signatures on included documents. Other frequently cited reasons for delay are: home study referrals are delayed at other state ICPC offices; home study referrals are delayed at county ICPC offices; and the placement resource does not fully cooperate with the county worker or delays completion of the home study. By ensuring that court orders have been issued within the 12-month time frame, establish jurisdiction, and contain specific language, courts can help to ensure that children subject to ICPC rules are placed more quickly.

Conclusion

The intent of the new ICPC is to facilitate—or rather, *improve*—the process of placing children across state lines. Whether the placement is to be temporary or permanent, is being made for treatment reasons, or is to reunite a child with a family member, the ICPC is intended to provide guidance and oversight for both “receiving” and “sending” child welfare workers, judges who make difficult placement decisions, and the families and children who are ultimately affected by each choice. As the first state to enact the new Compact legislation, Ohio will no doubt provide a template for other states as they prepare to adopt their own compact legislation.

Ohio ICPC Placement Requests

There were a total of 2,757 placement requests received by Ohio and 3,046 placement requests sent to other states during SFY 2003-2006. More than half of placement requests were for placement with parents/relatives. Adoption (including public, private and independent adoptions), foster care, and RTF/group home care account for nearly all of Ohio's additional requests for placement.



Endnotes

¹ The American Public Human Services Association (APHSAs) website is available at www.aphsa.org.

² Emphasis not in the original.

³ APHSA Frequently Asked Questions. Downloaded from www.aphsa.org/; November 10, 2006.

⁴ P.L. 109-239 Sec. 2. Sense of the Congress.

⁵ The new legislation shifts responsibility from the compact "agreement" structure through an outside source (APHSA) to HHS, which now has the responsibility of developing federal regulations and sanctions.

⁶ ICPC is a component of case processing, and, as such, is different for different types of cases (foster care, adoption, etc.).

⁷ Information summarized from the Ohio Judicial Conference; Enactment News: Enacted Senate Bill 238.

Available online at: http://www.ohiojudges.org/_cms/tools/act_download.cfm?FileID=1175&EnactNews%20GA126%20SB238-1.pdf.

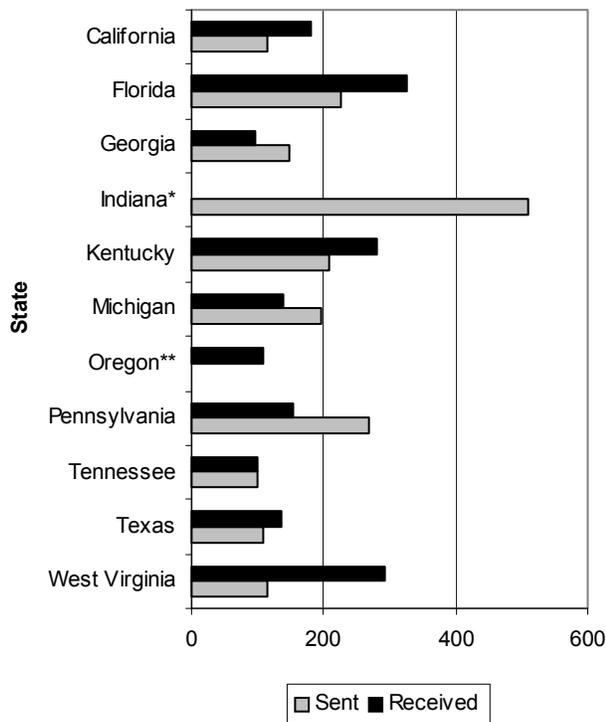
⁸ The child's proposed placement must be with a relative, specifically, a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or a court appointed legal guardian of the child, who could legally receive a child from another person belonging to the same class without invoking the Compact, and (1) the child is under two years of age; or (2) the child is in an emergency shelter; or (3) the child has spent a substantial amount of time in the home of the proposed placement recipient.

Ohio ICPC Placement Requests.....Continued

The following charts indicate the number of placement requests both sent^a and received by Ohio during SFY 2003-2006 by state and county. Florida, West Virginia and Kentucky accounted for the majority of placement requests received by Ohio; one-third of the total placement requests sent by Ohio were to Indiana, Pennsylvania and Florida.

Franklin, Cuyahoga and Hamilton counties both sent and received the majority of placement requests during SFY 2003-2006.

**Number of Placement Requests by State,
SFY 2003-2006**

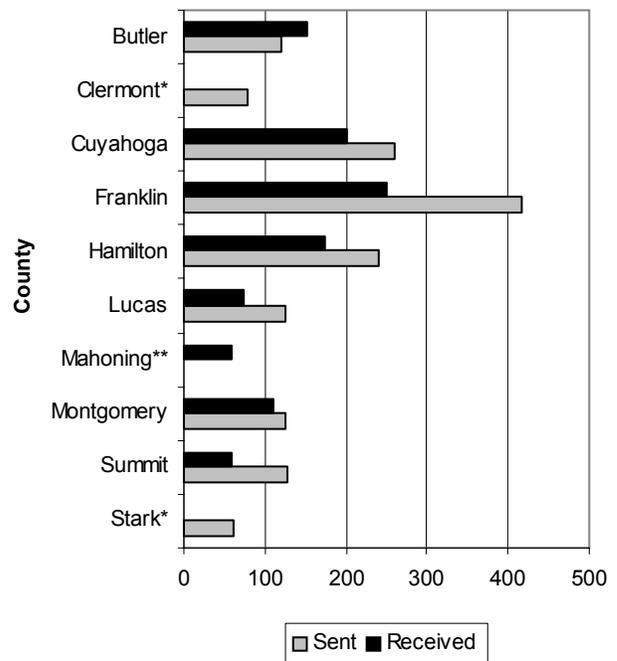


* Indiana was not one of the states from which Ohio received the most placement requests.

** Oregon was not one of the states to which Ohio sent the most placement requests.

^a Placement requests from parents/relatives do not have to comply with the stringent training or certification requirements under ICPC (resulting in a shorter time frame for the placement process).

**Number of Placement Requests by County,
SFY 2003-2006**



* Clermont and Stark counties were not part of the list of counties that received the most placement requests from other states.

** Mahoning County was not one of the counties that sent the most placement requests to other states.

Ohio Updates

Beyond the Numbers Spotlight: Athens County

Under the leadership of Judge Robert Stewart, members of the Athens County Juvenile Court and Athens County Childrens Service Board have participated fully in all levels of Ohio's Beyond the Numbers initiative. Their work has affirmed that they already have many existing practices and agreements that benefit the children who come before the court because of abuse, neglect or dependency. Athens County counts the following among its most successful:

- Priority genetic testing arranged through the Athens Department of Job and Family Services (separated agency);
- Substance abuse screening for parents once a week at the children services agency, often coordinated with visitations;
- Agreed-upon language in standard release of information forms, permitting a facilitated and more expedient sharing of information between community partners;
- Review of case plan requirements and the court's expectations in the courtroom with all parties and counsel present; and,
- Availability of therapeutic and other quality foster care.

After the Athens County team attended the Supreme Court of Ohio's Dependency Caseflow Management Workshop in March 2006, the Athens County Juvenile Court initiated additional procedures to promote timely and effective processing of cases:

- Appointing counsel for parents at the time of emergency removal, allowing the first court event to proceed in a more meaningful fashion;
- Making referrals for counseling assessments immediately upon the filing of a case, to counter-impact scheduling delays;
- Encouraging prompt inquiry into locating and evaluating suitable family members for placement of children.

Issues that continue to present barriers to timely and effective processing of dependency cases include:

- Parental attitudes and the adversarial nature of proceedings;
- The inherent conflict among requirements placed on parents (for example, the need to be gainfully employed and the need to attend all appointments); and,
- Balancing the time required for effective mental health and substance abuse counseling with the time parameters legally set for permanency.

Congratulations to this team on its hard work and positive outcomes for the children and families of Athens County.

Ohio Updates

Title IV-E Courts Receive Support of Ohio Judicial Conference

On March 1st, 2006 the Supreme Court Of Ohio’s Board of Commissioners on Grievances and Discipline (Board) was asked

“(W)hether or not it is permissible, within the canons, for a juvenile court to act as a child placing agency for the purpose of receiving reimbursement through Title IV-E of the Social Security Act when provisions of that act require the court to make judicial determinations concerning whether or not continued placement in the home is contrary to the welfare of the child, and whether or not the placing agency (in this case the court) has made reasonable efforts to prevent the need for the placement of the child in order to receive such reimbursement.”

The precipitating concern was a fear that the court would be acting in two potentially conflicting capacities in this circumstance, specifically:

- As a custodian of children, in the court’s role as a placing agency.
- As a custodial monitor, in the court’s role of providing judicial oversight.

The Advisory Opinion Subcommittee of the Board of Commissioners on Grievances and Discipline met on April 7, 2006 and considered the request, but declined to offer an opinion. The Board replied:

“Because your inquiry raises a question of broad impact to juvenile courts, the subcommittee is forwarding your inquiry and a copy of an interagency agreement to the Ohio Judicial Conference and to the court’s legislative counsel to consider reviewing the legal issues raised by juvenile courts entering into Title IV-E interagency agreements between the board of county commissioners, juvenile courts, and the department of job and family services through which the court becomes a Title IV-E agent.”

The Board referred the question to The Ohio Judicial Conference Juvenile Law and Procedure Committee, which reviewed the matter over the course of several months. On November 17th, 2006 the Ohio Judicial Conference Executive Committee approved the following resolution:

Resolution to Support Optional Juvenile Court Participation as a Title IV-E Placing Agency

The Ohio Judicial Conference Executive Committee resolves that optional Juvenile Court participation as a Title IV-E placing agency is consistent with the traditional role of the juvenile court, is supported by the law of the state, and is consistent with the ethical standards embodied in the Judicial Canons. The Judicial Conference also recognizes the emerging role of specialized courts in the proper administration of justice in Ohio and is working diligently with other interested parties to determine the parameters of the changing role of judges in Ohio. This Resolution is supported by the attached analysis.

It is the position of the subcommittee of the Ohio Judicial Conference, Juvenile Law and Procedure Committee that court participation in Title IV-E supports the law and the administration of justice. First, the participation does not raise a separation of powers concerns. Additionally, the special nature of the juvenile court allows for and requires the judge to be more than simply an arbiter of facts. Also, the participation is specifically provided for by statute. Finally, the participation is consistent with the standards of ethics and professionalism contained in the Code of Judicial Conduct.

The supporting opinion prepared by the Ohio Judicial Conference Juvenile Law and Procedure Committee offers a thoughtful and well-developed foundation to the resolution. A full copy of the resolution and supporting opinion paper is available at www.ohiojudges.org under “OJC position statements.”

Ohio Updates

Supreme Court of Ohio Creates New Section for Children and Family Programming

The Supreme Court of Ohio has established a new organizational unit within the Division of Judicial and Court Services, the *Children, Families and the Court Section*. This action reflects Chief Justice Thomas J. Moyer's continuing acknowledgement of both the importance and the complexity of issues that impact the families and children that come before Ohio's courts. It was unprecedented in 1995 when the Chief Justice first assigned a part-time staff person to initiate cooperative work with the Ohio Department of Job and Family Services (then the Ohio Department of Human Services). Early labors such as the Family Court Feasibility Study, Family Code Initiative, specialized judicial trainings, and the expansion of mediation and drug court programming have evolved into the creation of Ohio's Court Improvement Program, family-specific programming, and the *Advisory Committee on Children, Families and the Court*. The Supreme Court of Ohio now has 9 staff who focus on issues related to children, families and the courts (including 5 staff who are fully devoted to these issues). The court is nationally recognized for its partnerships on behalf of children at risk of child abuse, neglect and dependency.

Steve Hanson, has been selected as the first Supreme Court manager of the Children, Families & the Courts Section. Steve brings 26 years of experience working with children and families including 20 years in the Ohio Court System. His previous work in the Supreme Court's Case Management Section included the development of an Ohio Juvenile Dependency Docket Caseflow Management curriculum and administering the Court Improvement Program.

Advisory Committee on Children, Families, and the Courts: Update

At the October 2006 meeting of the Advisory Committee on Children, Families and the Courts (Advisory Committee), Co-chairs Basinski and Jones-Kelley gave special recognition to the appointees whose terms conclude in 2006. Each of these individuals should be acknowledged for the extended time and work commitment that membership on this active group requires:

Judge Brad Culbert

Sandusky County Juvenile Court

Richard DeHeer

Court Administrator, Stark County Family Court

Judge Russell A. Steiner

Licking County Domestic Relations Court

Robert N. Wistner

Attorney, Dublin, Ohio

Alexandria Ruden

Attorney, Legal Aid Society of Cleveland

Subcommittee on Responding to Child Abuse, Neglect and Dependency

Definitions of Child Abuse & Neglect

- The Legislative Services Commission has drafted the subcommittee's recommendations in bill form, as they would appear if introduced for legislative consideration; this is for review purposes only and has no sponsor, bill number or legislative action. Because the legislative draft corrects all statutory reference to terms and definitions, including criminal cross-references, it is over 500 pages long. The subcommittee currently is working to fine-tune the proposal's language; it will be available for review and comment on the Ohio Children Protection Law Reform Initiative website when complete.

Ohio Updates

Advisory Committee on Children, Families, and the Courts: Update.....Continued

- In January, the Advisory Committee asked the subcommittee to educate impacted stakeholders on the proposed changes and identify the support for and opposition to the proposed changes. Subcommittee members have worked closely with the National Center on Adoption Law and Policy to carry out the Advisory Committee's instructions. Activities include:
 - A website, <http://www.ohiochildlaw.com>, which provides regularly updated general and discipline-specific information, as well as a mechanism to directly input feedback on the proposal. Everyone is encouraged to periodically review new postings and submit comments.
 - Educational sessions with all stakeholder organizations.

Alternative Response System

- The subcommittee is seeking a vendor—experienced in the development of state-level alternative response system—to guide and assist with four tasks related to the field testing of an Alternative Response System in Ohio:
 1. Project construction
 2. Pilot implementation
 3. Pilot evaluation
 4. Identification of necessary steps to implement statewide, if indicated.

The Supreme Court of Ohio has released a Request for Proposals. For additional information, contact Steve Hanson at hansons@sconet.state.oh.us.

Subcommittee on Rules and Statutes

Adoption Jurisdiction

The subcommittee presented the following information in the form of motions accepted by the Advisory Committee:

- After considerable examination of existing data, there is nothing to support the transfer of adoption jurisdiction; however, the subcommittee will continue to review new data and evidence, and will revisit any item that indicates a way to improve court processing.
- The subcommittee seeks to amend the Rules of Superintendence (through the Probate Judges Association) and impose a limitation on the time that can elapse from the filing of the motion to adopt to the finalization of the adoption. The subcommittee also will seek to amend the standard adoption petition form to require notification of the child's guardian ad litem.

Proposal to Modify Juvenile Rules 3 and 29

The subcommittee felt that the issue of whether all children should be required to have an attorney in juvenile court requires discussion by a much broader and diverse group. The Advisory Committee was asked to appoint a separate and distinct work group with representation from specified disciplines. It is anticipated that work group membership will be finalized by the January 2007 meeting.

continued on page 20.....

Ohio Updates

Advisory Committee on Children, Families, and the Courts: Update.....Continued

GAL Rules and Statute Review

The subcommittee is reviewing existing statutes and/or rules that to identify those that will become antiquated or obsolete, and/or comprised by the proposed guardian ad litem standards. It also has identified several issues regarding guardian ad litem services for more specific study.

Subcommittee on Legal Representation

The Supreme Court of Ohio Advisory Committee on Children, Families, and the Courts established the Subcommittee on Legal Representation (through March 31, 2008) to:

- Identify strategies for increasing the availability of quality legal representation for the children, families, and child-serving agencies that come before Ohio's Courts; and
- Make recommendations as to which of these strategies should be implemented.

Under the direction of Chair Judge James Ray and Vice-Chair Melissa Graham-Hurd, the subcommittee will address issues surrounding the recruitment and retention of attorneys and legal education issues under the direction of Chair Judge James Ray and Vice-Chair Melissa Graham-Hurd. The newly appointed subcommittee first met on November 29, 2006 during which time it identified research priorities. The subcommittee intends to split its 18-month timeframe evenly between researching and writing a report to the Advisory Committee with specific action recommendations.

Legal Education

Two workgroups, the *Domestic Relations Legal Education Workgroup*, co-chaired by Kathy Clark and Judge Carol Dezso, and the *Juvenile & Probate Legal Education Workgroup*, chaired by Melissa Graham-Hurd, are examining both pre-practice and continuing legal education related to representation in either domestic relations or juvenile and probate courts to determine what combination of educational opportunities maximizes the quality of legal education. Each workgroup will prepare a report to the full subcommittee that makes recommendations as to whether there is need for changes or additions to current programming and, if so, what changes or additions are recommended.

Recruitment and Retention

The subcommittee will prepare a report recommending programs likely to improve the availability of qualified legal representation for children, families and related agencies in Ohio. It will inventory existing programs in Ohio aimed at recruiting and retaining lawyers in child and family law practice, and conduct national research to identify strategies aimed at positively impacting the recruitment and retention of lawyers in child and family law practice.

Ohio Updates

Subcommittee on Legal Representation Membership

Judge James A. Ray, Chair
Lucas County Juvenile Court

Melissa Graham-Hurd, Vice-Chair
Attorney at Law

Jill Beeler
Ohio Public Defender Commission

Yvonne Billingsley
Cuyahoga County Prosecutor's Office

Steve Cianca
Ohio State Bar Association

Kathleen A. Clark, Ph.D.
Capital University-Social Work Program

Judge Charlotte Coleman Eufinger
Union County Probate/Juvenile Court

Judge Carol J. Dezso
Summit County Domestic Relations Court

Katherine Hunt Federle
Ohio State University Moritz College of Law

Alexandra Hull
Attorney at Law

Jeff Liston
Attorney at Law

Pauline E. O'Neill
*Hocking County Children Services,
Assistant, Prosecuting Attorney*

Magistrate Diane M. Palos
Cuyahoga County Domestic Relations Court

Alexandria Ruden
Legal Aid Society

Michael Smalz
Ohio State Legal Services Association

Sara R. Vollmer
*Ohio Department of Youth Services,
General Counsel*

Ohio Updates

Chief Justice Thomas J. Moyer Makes New Appointments to Advisory Committee on Children, Families, and the Courts

In November 2003, Chief Justice Thomas J. Moyer announced the establishment of the Advisory Committee on Children, Families and the Courts (Advisory Committee). Noting that advisory committees help the court adapt and reform to the needs of the future, Chief Justice Moyer announced his intent for the Advisory Committee "...to make recommendations on how to best implement various family law initiatives. Their input will help us determine how the Ohio court system can best serve children and their families."

These past three years have shown the Advisory Committee to be a thoughtful and productive assimilation of judges, magistrates and various professionals who specialize in child and family issues. Continuing members are:

Judge David A. Basinski, Co-Chair
Lorain County Domestic Relations Court

Helen E. Jones-Kelley, J.D., Co-Chair
*Director, Montgomery County
Department of Job & Family Services*

Kathleen A. Clark, Ph.D.
*Assistant Professor,
Capital University-Social Work Program*

Judge Denise L. Cross
Montgomery County Domestic Relations Court

Judge Carol J. Dezso
Summit County Domestic Relations Court

Melissa Graham-Hurd
Attorney at Law, Ohio State Bar Association

State Senator Timothy J. Grendell
Chesterland

Representative James M. Hughes
Columbus

Judge Thomas R. Lipps
Hamilton County Juvenile Court

Kathy Lopez
Chief Deputy Clerk, Clark County Juvenile Court

Diane M. Palos
Magistrate, Cuyahoga County Domestic Relations Court

Mark G. Rhoades
*Administrative Assistant, Athens County
Probate and Juvenile Court*

Barbara Riley
Director, Ohio Department of Job & Family Services

Michael Smalz
*Senior Statewide Attorney,
Ohio State Legal Service Association*

Judge Thomas A. Swift
Trumbull County Probate Court

Sara R. Vollmer
General Counsel, Ohio Department of Youth Services

The following individuals have been appointed to three year terms by Chief Justice Moyer to join the work of this group beginning in January 2007:

Judge Craig R. Baldwin
Licking County Juvenile Court

Judge Charlotte Coleman Eufinger
Union County Probate/Juvenile Court

Robert Clevenger
Court Administrator, Butler County Juvenile Court

Heather Sowald, Esq.
Sowald, Sowald & Clouse

Alexandra Hull
Attorney at Law

Jill Beeler, Esq.
Ohio Public Defender Commission

Ohio Updates

Ohio Children Protection Law Reform Initiative

The Ohio Children Protection Law Reform Initiative proposes three fundamental and sweeping changes to Ohio's child protection system:

- Overall structural, statutory change from an “abuse, neglect, dependency” system to a “Child in Need of Protective Services” model;
- The establishment of an Alternative/Differential Response system; and
- The establishment of a new array of statutory definitions for use in intake, investigation, adjudication and disposition of child protection cases.

If you work with Ohio's families and children, you should familiarize yourself with the implications of this proposal, evaluate how this would impact upon daily work in your individual role, and make your feelings known.

On the Ohio Children Protection Law Reform Initiative website, you can:

- Get answers to frequently asked questions
- Read informational summaries prepared specific to your discipline
- Review and comment on proposed statutory language
- Get information regarding upcoming events and presentations

Become a part of the process; your input is important!

Beyond the Numbers

While Beyond the Numbers has affirmed the individuality of county priorities, issues, and successful responses, it also has emphasized the value of sharing expertise and experience across jurisdictions. We are seeking accounts of county successes and barriers as local planning efforts are initiated. Have you already dealt with a challenge that another county has identified? Or can you isolate an issue that is causing delay but can't decide how best to tackle it? Perhaps a reader can benefit from your experience or address a problem that has you stumped. Direct your questions, answers or articles to Steve Hanson at HansonS@sconet.state.oh.us.

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The National Center for Juvenile Justice (NCJJ) is a non-profit organization that conducts research (statistical, legal, and applied) on a broad range of juvenile justice topics and provides technical assistance to the field. NCJJ is the research division of the National Council of Juvenile and Family Court Judges.

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