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Challenges In Legislative Implementation --
Common Themes, New Approaches and Systemic Solutions

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As parents, would you send your child to school and never ask to see a report card? Would you neglect to sit down with your child's teacher if bumps develop along the way? And is there anyone who feels our responsibility to our own children ends with signing the school admission form and putting them on the school bus?

Being a parent in our fast paced and complex society isn't easy. We find ourselves racing from doctor's appointments to parent-teacher conferences to soccer practice to music lessons. As good parents, it becomes our responsibility to coordinate the intertwined and varied aspects of our children's existence; to make sure that teachers know about the new medication our children are taking and to let the coach know they have an excuse when an emergency keeps them away from practice. We don't just take responsibility for one piece of our child and pass on the other issues to someone else. We collect and share information, bring together the multifaceted pieces of our children's lives, and coordinate with everyone significant to our children's success and future.

If we acknowledge that this type of oversight is essential to the well being of our own children, we must also ask ourselves what happens to those other children we "parent" -- the nearly ninety thousand children and youth in foster care in our state who have no one to shepherd them through the confusing and sometimes contradictory systems that have a critical impact on their lives.

The answer, repeated thousands of times, is that without someone to coordinate all these disparate elements, children end up falling through the inevitable cracks and suffering in ways large and small.

As communal "parents" of the children in California's foster care system, we often seek to address problems facing our most vulnerable children legislatively through the enactment of new laws, but even as we seek to address problems facing our children at this broader level, too often we fall short as a result of disjointed and lax implementation of legislative endeavors. We enact laws that are well intentioned and

strive to do better for children in our state, but with no single parent to “mind the shop” all of us -- *collectively* -- fail to do right by the children we are endeavoring to help when we don't follow up with effective implementation of new laws. We have no vehicle in place to track how, whether, or if the aspirational changes we sought to bring about on behalf of the most vulnerable children in our state have come to pass. In short, we neglect to monitor how our new laws are playing out for children and don't demand to see that all-important final report card!

I commend the Select Committee on Foster Care and the Health and Human Services Committee for bringing attention to the critical issue of legislative implementation through today's joint hearing. This issue is particularly timely in a year where an impressive bipartisan legislative package has been unveiled that aims to address a host of key issues and concerns facing children in our state's foster care system. Yet even the best of bills will mean little in the day to day lives of abused and neglected children and youth if we continue to struggle with deficient practices, ongoing barriers, and disjointed implementation efforts that together prevent new laws from making any meaningful difference for the children whose lives we commit to improve.

Today, I'd like to offer my thoughts as to why excellent and well-intentioned legislation enacted in the past has failed to be as effective as all of us would have liked. When we glance back at the divergence between what we *aimed* to accomplish on behalf of children and youth and what we have *in fact* achieved on their behalf, we see several common themes – hurdles in information sharing, a lack of “buck stops here” leadership, and a failure to bring together those that need to be part of the conversation that is inherent in responsibly doing right by the children we have agreed to parent.

Addressing these concerns is one of the most important challenges facing your committees in the coming year. Under your leadership we can and we must turn the corner and enhance our ability to make changes in the law a reality. We owe it to the children in our state to make that happen.

A. Overview of the Challenges

As California's foster care system currently operates, there is a conspicuous lack of collaborative oversight -- and no collective sense of accountability -- for the individual child. As a result, far too many of our most vulnerable children continue to suffer from problems that are left unidentified or unresolved because the various arms of the government responsible for raising these youth operate in silos and no one takes overall responsibility for ensuring the well being and success of foster children.

Each year, close to three quarters of a million of California's children come into contact with our child welfare system. More than half are age five or under. As a state, we share responsibility for these vulnerable children; when we remove them from the home and bring them in our foster care system, all of us collectively undertake to “parent” them. Yet too often foster youth struggle to find stability or permanence and face a revolving door of homes, disruption of schooling, loss of contact with siblings and

extended family, and an inability to experience a normal childhood. It is thus not surprising that foster youth find it difficult to keep up – 75% are working below grade level in school, almost half do not complete high school, and as few as 15% attend college.

A new approach to our longstanding way of doing business could enhance our ability to address the needs of abused and neglected youth in foster care. With improved leadership, enhanced collaboration among the many systems that impact the lives of youth in foster care, and built-in requirements for achieving measurable outcomes, positive advances can begin to take form.

The time is ripe for these changes; our failure to do so will result not simply in an ongoing human toll but also in ongoing negative fiscal ramifications within our state as we face potential federal penalties and also continue to pay for the downstream bi-products as youth in foster care find themselves on adverse adult paths.

B. The Role of the Children’s Law Center of Los Angeles

The Children's Law Center of Los Angeles is a nonprofit, public interest law corporation created over a decade to serve as appointed counsel for abused and neglected youth. Our clients account for over 20,000 children and youth in the Los Angeles dependency court system. As such, we serve as the legal counsel and "voice" for approximately one in four of California’s foster youth.

Children’s Law Center attorneys represent foster children in juvenile dependency proceedings and advocate for the critical services and support these children so desperately need. On a broader organizational level, we strive to identify areas where systemic reforms are needed and to work to bring about those more far-reaching changes. We have been the sponsor or co-sponsor of a dozen bills in the California Legislature over the past three years – enactments aimed at addressing key issues including closing the education achievement gap too many foster youth face, addressing the needs of teens in foster care, preserving and protecting sibling and family ties, and creating enhanced housing opportunities for youth aging out of care. Given our role as the largest representative of foster youth in California, if not the nation, we take quite seriously the need to work with others and address systemic deficiencies in our state’s foster care system.

C. Legislative Initiative Implementation Gaps - - Common Themes

Our state legislature, on a yearly basis, passes a multitude of legislative reforms aimed at addressing particular needs of children in foster care. In past years, these bills have focused on critical issues including mandating better educational opportunities, providing permanent connections for youth in foster care, and creating better services for youth who are aging out of the foster care system. While these bills are an important vehicle for fixing problems and concerns faced by abused and neglected children in our state, they often fail to result in significant day-to-day changes in the lives of those youth

due to deficient implementation efforts and the absence of any systemic vehicle for collaboration and joint involvement of all that need to be involved in achieving full implementation on both a state and county level.

Without significantly improved coordination and collaboration among the many state agencies serving foster children, our state will never fully realize the oft-stated goal of protecting, caring for, and healing the thousands of abused and neglected children on whose behalf we intervene every day. While there are encouraging examples of efforts to develop protocols and create a cohesive and coordinated approach to parenting foster youth, the existing level of coordination and collaboration is, at best, hit or miss. Clearly delineated and centralized state leadership must exist in order to create mechanisms for streamlined delivery of services to children and families. Similarly, without some measure of accountability we will continue to spend countless hours chasing services and haggling over which department should be attending to the child's need.

As the Little Hoover Commission aptly noted, "there is no one person or agency at the state level with responsibility and authority for children in foster care." The national, nonpartisan Pew Commission on Children in Foster Care underscored the same concept in recommending the development of multi-disciplinary, broad-based commissions on foster care that engage the entire community. The Pew Commission observed: "[C]hildren and families involved with the child welfare system are often simultaneously engaged with other community agencies and services - - schools, health care, mental health, child care, and others. Children and families are better served when these multiple community partners come together on their behalf."

Innovative and effective models of statewide leadership and collaboration exist elsewhere. In Arizona, a groundbreaking Children's Cabinet formed by Governor Janet Napolitano ensures high-level leadership, visibility, and support to addressing the needs of that state's foster youth. The Children's Cabinet was created with the express purpose of coordinating -- at a state leadership level -- all government agencies that provide services to abused and neglected children.

Other states similarly have crafted legislative or judicially led Commissions and Task Forces aimed at breaking down traditional communication barriers among those who work in the child welfare system and creating a vehicle for collaborative and informed leadership and decision making on behalf of children.

Our state should look to these approaches as a model for enhanced leadership and collaboration in California.

D. Specific Implementation Concerns

Without a timely, workable implementation plan, any legislative effort necessarily falls short. Whether the bill in question calls for overarching reform or provides a technical amendment, meaningful guidance from the Department of Social Services is critical to ensure that counties and other entities responsible for carrying out the

legislated changes are able to move forward consistent with the legislature's wishes. Similarly, when guidance does come, whether it is in the form of regulations, an all county letter ("ACL"), or an all county information notice ("ACIN"), if that guidance is at odds with the expectations and intentions of the bill's author, sponsors, consumers or other key stakeholders, the result can undermine the intended legislative fix.

While we recognize and commend the DSS for the issuance of guiding written documentation on many bills enacted over these past few years, there continue to be many challenges that all of us must work together to overcome if we are to see real change take place. In that others will be addressing how these challenges have played out in regard to particular legislative enactments, my comments will be directed at broader systemic issues and concerns.

? There is no "parent" in charge of, and responsible for leadership on behalf of, our foster children

Our child welfare system is organized to attend to children's needs one piece at a time, a methodology that necessarily causes further harm to already traumatized children. Rather than the centralized oversight a parent brings every day to the needs, crises, and challenges unfolding in a child's life, our disjointed governmental parenting of foster youth results in a lack of coordinated or thoughtful decision making and on the legislative front a lack of collective efforts to implement new laws.

The National Commission on Children observed in 1991, "If the nation had deliberately designed a system that would frustrate the professionals who staff it, anger the public who finance it, and abandon the children who depend on it, it could not have done a better job than the present child-welfare system." Not enough has changed since that harsh assessment was issued.

As the system currently operates, there is a conspicuous lack of cohesive and collaborative parenting -- and no collective sense of accountability -- for the individual child. As a result, far too many problems are left unidentified or unresolved and new bills fail to see true and cohesive implementation across systems because the various arms of the government responsible for raising these youth operate in silos and no one takes overall responsibility for ensuring the well being and success of foster children.

We would be hard pressed under our current system to identify anyone as the ultimate "parent" responsible for the plight of children in foster care. As Little Hoover Commission Chairman Michael Alpert bluntly observed: "The current muddle of authority and responsibility frustrates the innovative and shields the unresponsive. The buck stops nowhere. And until that problem is resolved discussions about 'best practices' and 'outcome measures' are meaningless."

Not only is there no central child welfare leadership figure, but even within agencies there is no "go to" person taking responsibility for implementing new legislation. As a result, stakeholders and bill sponsors must take a hit or miss approach -

- relying on informal networks or personal contacts - - to obtain information or provide input in regard to implementation of legislation.

? *There is no “ticking clock” that forces implementation to occur in a timely and child-focused manner*

Foster care issues and reforms necessarily must be sensitive to the significance of the passage of time from a *child’s* perspective. For the children whom we seek to benefit through the passage of new laws, six months or a year can seem like an eternity. Yet there are no deadlines for implementing new legislation or requisite time frames for the crafting of regulations or other guiding implementation documents. Nor is there any required report back to the legislature as to the status of implementation efforts. Instead, new laws can sit for months or even years before guidance issues and true implementation results. In the intervening time, children continue to suffer and counties and other impacted agencies often flounder.

? *Information sharing barriers continue to plague effective implementation and communication*

Different parts of the system that share responsibility for parts of a child’s life continue to have no mechanism for talking with each other and sharing information. It is unimaginable to envision a parent barred from talking to her child’s doctors, teachers, and others who are helping address the child’s needs. Or a parent barred from knowing how his or her child is progressing in school. Yet these precise information walls arise on a daily basis as social workers, judges, lawyers and others seek to access critical information on behalf of children they are charged with protecting and assisting. Indeed, our largest school district in the state, despite state law to the contrary, continues to abide by its view that it is not empowered to share education records with social workers, court or child advocates.

Communication and information sharing hurdles carry over into the arena of legislative implementation. There is no systematic approach to ensuring communication among the bill sponsors, authors, or other key stakeholders and those who are preparing regulations and overseeing implementation. Without these exchanges, implementation simply cannot be crafted to reflect legislative intent, nor is there adequate consideration given to the experiences of those who have day-to-day contact with the children and families the laws are designed to aid.

Moreover, many pieces of legislation aimed at improving the well-being of children and families impact multiple agencies. It is not uncommon for one bill to address needed changes in the child welfare and education systems or the health and mental health systems. To truly achieve successful implementation there must be a coordinated effort by all affected entities to break down implementation barriers and share key information needed to address the welfare of the children we collectively “parent.” The lack of ability to exchange information among all the stakeholders not

only lessens the intended impact of legislative initiatives, but may ultimately have disastrous effects in the lives of the vulnerable children under our care.

? *The absence of statewide training and education inhibit the effectiveness of new laws*

Equally as important as the crafting of regulations is the dissemination of information and training regarding new laws. Every day, all across our state, decisions are made by foster parents, child welfare agencies, teachers, healthcare providers, and others who cannot be expected to track legislation. Yet there is no formal and coordinated outreach to educate them on new law. As a result, decisions are made without the benefit of up to date information about new legal requirements.

Moreover, it is not uncommon to see practices vary widely from county to county. Statewide training on new laws aimed at those charged with ensuring that these laws become part of child welfare practice could help promote a more uniform application of the law. Currently, local agencies handle these issues in a piecemeal manner. And often the training that does occur is reactive instead of proactive. Only after a series of complaints, the discovery of noncompliance with current law, or when tragedy strikes, is attention paid to training on a particular topic. Absent enhanced and coordinated training, we will continue to see some laws ignored while others are routinely misapplied.

E. Turning the Corner -- Recommendations for New Approaches

We can and must take steps to change past performance and ensure that future legislation is implemented as intended. If we are to do so, however, our system must act collectively and collaboratively in the same way that all of us, as individual parents, follow through on our own children's issues. We must not be content to simply put our foster children on the bus after duly enrolling them in school and then walk away. We must do more:

- ? *A collaborative body* with high level state leadership from key government agencies as well as the court is a critical ingredient of ensuring effective legislative implementation in a truly coordinated manner. As part of its groundbreaking recommendations to reform foster care in our nation, the Pew Commission on Children in Foster Care urged the development of "broader, multi-disciplinary collaboration that engages the entire community in reaching the goal of providing all children with safe, permanent families in which their physical, emotional, and social needs are met." Our state must take this recommendation to heart as we seek to address gaping legislative implementation voids, as well as other shortfalls seen in our collective parenting of foster youth.
- ? *High level statewide leadership* on behalf of foster children must be established so that there can be no doubt where the "buck stops" and who, at the end of the day, sits in the seat of the responsible parent for children in our foster care system. Moreover, within each of the key agencies involved in legislative implementation,

there should be a *legislative implementation point person or persons* to serve as a point of contact on these important issues.

- ? *Creation of timelines for implementation* will ensure both speedier execution and better attention to the needs of children, their families, and community partners. Legislative implementation should not be driven by the happenstance of the press of other matters or busy schedules. In addition, a set schedule for a *report back to the legislature* on legislature implementation should be considered. Given legislators' collective responsibility to children under our state's care, our legislative body should be entitled to receive a report regarding the effectiveness of their efforts and any areas where modifications or additional reforms are needed.
- ? *Effective communication and information sharing are a necessary part of effective legislative implementation.* All parts of the system should have the ability to talk with each other and share appropriate information and data in regard to the children we are all, together, raising. A comprehensive plan to ensure information flow among the court and key government agencies must be crafted and implemented. We need to reduce existing barriers to sharing information and debunk existing myths in regard to what is or may be appropriate. It is impossible for any parent to provide excellent care for a child about whom they know only bits and pieces of information. Similarly, until the many agencies and entities that serve children develop methods for sharing pertinent information, California will not see true foster care or child welfare reform.
- ? *Measurable outcomes* should be established and incorporated into every piece of new legislation. These benchmarks will allow the legislature to evaluate the pace and effectiveness of implementation and to hold individuals and systems accountable for adequate performance in bringing about positive change. All of us involved in the foster care system should embrace, rather than resist, measures of accountability.
- ? *Collaborative and coordinated training* that is proactive rather than reactive will dramatically enhance our state's ability to serve children and families consistent with legislative enactments.

The legislature has the ability to look at challenges to our foster care system through a new lens and the opportunity to demand success. For your initiatives to make a true difference in the daily lives of foster youth, however, you must break through the bureaucratic log jam, construct enhanced practices and approaches to legislative implementation, and create a new way of doing business.

This can only be accomplished if you demand to get a report card, you read it regularly, and hold our state's systems accountable for receiving a passing grade.