



SEN. ROGER J. KATZ, SENATE CHAIR
REP. ANNE-MARIE MASTRACCIO, HOUSE CHAIR

MEMBERS:

SEN. NATHAN L. LIBBY
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. GEOFFREY M. GRATWICK
SEN. THOMAS B. SAVIELLO
REP. JEFFREY K. PIERCE
REP. JENNIFER L. DECHANT
REP. MATTHEW A. HARRINGTON
REP. DEANE RYKERSON
REP. PAULA G. SUTTON

**MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE**

**MEETING SUMMARY
June 28, 2018
Accepted August 9, 2018**

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 8:38 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Gratwick and Sen. Saviello
Joining the meeting in progress: Sen. Diamond
Absent: Sen. Libby

Representatives: Rep. Mastraccio, Rep. Pierce, Rep. DeChant, Rep. Rykerson and
Rep. Sutton
Absent: Rep. Harrington

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Matthew Kruk, Principal Analyst, OPEGA
Scott Farwell, Senior Analyst, OPEGA
Amy Gagne, Analyst, OPEGA
Kari Hojara, Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves.

SUMMARY OF THE MAY 31, 2018 GOC MEETING

The May 31, 2018 Meeting Summary was accepted as written.

NEW BUSINESS

• Presentation of OPEGA Report on Temporary Assistance for Needy Families Program (TANF)

Director Ashcroft thanked the OPEGA analysts who worked on the review and DHHS staff for their cooperation during the review.

Director Ashcroft presented OPEGA's Report on Temporary Assistance for Needy Families Program. (A copy of the Report can be found at <http://legislature.maine.gov/opega/opega-reports/9149>.)

Sen. Saviello referred to the CY numbers in the charts and asked if the information related to individuals. Director Ashcroft said the numbers reflect the number of assistance groups and there could be multiple individuals in an assistance group. He noted in Figure 3 on page 17 of the Report that in 2012, 2,000 people came off the Program and asked if that was reflected in Figure 1 on page 15 for CY11-CY12 or CY12-CY13. Director Ashcroft said it was reflected in CY 11-12. They are the actual numbers of assistance groups that came off the Program.

Rep. Rykerson did not think the group statistics were that meaningful because it could be a group of 1 or 5 people. He asked if the Report information was in groups because that was the information that was readily available. Director Ashcroft said OPEGA could have graphed it by number of individuals, but chose to do it by assistance groups because that is the bases on which DHHS makes their eligibility decisions. Either the group is eligible or it is not and then which individuals are in the group is the second piece. OPEGA could, if the GOC wanted them to, do the graphs by number of people captured in those assistance groups as well.

Rep. Mastraccio asked if the 60 month limit only applies if you don't have children under the age of 18 or somebody over 65. Director Ashcroft said it is a lifetime limit period. Rep. Mastraccio asked if the limit applied even if you had children in the home. Director Ashcroft said it did. When that law was enacted in Maine the hardship extensions was also enacted and she noted there were also exemptions that are available from the eligibility requirements. Rep. Mastraccio said even if, for example, she had been receiving benefits for 60 months and had 3 kids under the age of 18, but had been on it that long, they were not giving extensions or exemptions for those reasons or for someone over the age of 65. Director Ashcroft said OPEGA did look at hardship extensions and exemptions. They were relatively few compared to the total overall caseloads and OPEGA did not think the degree to which those were occurring were an impact in the enrollment decline. OPEGA did not look at specific case decisions that DHHS made. Rep. Mastraccio asked what would be considered an exemption. Director Ashcroft said OPEGA did not look at anything other than the number of exemptions and the types. She referred to Table 1, page 13 of the Report for types of extensions. Extensions are granted for up to 6 months at a time, but you can apply for multiple extensions. OPEGA can get the Committee the detail behind what is require to meet the, for example, domestic violence extension, if that is something that would be of interest to them.

Rep. Pierce said the federal program guidelines is 60 months so Maine actually just started following the law in 2011 and that is why Maine is facing a severe fine for not following the program requirements. Director Ashcroft said there always was a life time limit in the federal program. States were allowed to provide assistance beyond that limit using state dollars and that could count towards the state's maintenance of effort. That is historically what Maine had done up until 2012. She agreed that Maine put in a more hard and fast limit to mirror the federal program requirement, but the penalties Maine is facing do not have to do with the 60 month time limit. They have to do with Maine's failure to meet work participation rate requirements. Rep. Pierce thought the 60 month benefit limit was included in Maine's fine. Director Ashcroft said there is an impact from the 60 month requirement Maine put into the program in that because of the limit folks have come off the basic assistance caseload who might not have been as likely to meet their work participation requirements under TANF. That is how those two impact each other if we might assume that folks that had been on the program for a long time may not have been participating in employment and workforce training. She said the 60 month limit may have an impact, but is not the specific reason Maine is being penalized.

Sen. Katz said the hardship extension reasons were put in place in 2012 and he knows there have been a number of efforts to change those, but he could not recall if they were, or were not, changed. Director Ashcroft said she will have to get back to him about whether they have stayed the same since they were originally enacted or whether they have changed. (Note: OPEGA subsequently confirmed the hardship extension reasons had not changed since enactment.)

Sen. Katz asked if OPEGA looked at the integrity of the extension and exemption process to see if there were complaints about whether the people applying for those were getting just decisions or not. Director Ashcroft said OPEGA did not review that information. He said if the drop off in successful applications is in part because of the 60 month limit and in part because of disqualification from participation, it would seem as the economy improves and its unemployment goes down, you would see a natural decrease in applications and TANF beneficiaries. He thought OPEGA's Report information followed that track. Director Ashcroft said that is what OPEGA is assuming is the picture with the decline, but they did not confirm that by doing an analysis of economic indicators in Maine.

Rep. Rykerson asked if a child is eligible in the assistance group from the age of 1 to 6 that means that child will not be eligible for the rest of their life. Director Ashcroft said it was based on the adult so the assistance group that might normally have included an adult and a child now would only apply to the child.

Sen. Gratwick asked for further clarification on assistance group eligibility. If the adult has reached the 60 month limit and has 3 children, those children are not going to receive any benefits after the adult gets to the 60 month limit because there is a pattern of exclusion of the whole unit. Director Ashcroft said the children would be looked at as their own assistance group absent the adult. When the assistance group is made up of the dependent children and then may also include various adults in their lives. Sen. Gratwick thought there were full family sanctions and would like it clarified for the next meeting. Director Ashcroft will get clarification on assistance group eligibility.

Sen. Katz said Maine has a decline in the number of families receiving TANF and Maine continues to receive the same federal allocation. He asked if the monthly benefits for the families who are still receiving TANF changed. Director Ashcroft believes there is a CPI escalator in them, but OPEGA did not look in detail at what the benefit levels were or how those had changed over time. Sen. Katz said it sounds like the people who are getting TANF assistance are getting the same amount as increased by a CPI factor and DHHS has chosen not to spend any of the left over money after the families get their amounts. Director Ashcroft agreed. He asked how the monthly TANF eligibility amount was determined. Director Ashcroft said a formula is used and the amount depends on who is in the assistance group. Sen. Katz asked if it was a formula given by the federal government or a formula Maine makes for itself. Director Ashcroft believes it is spelled out in Maine's State plan that is submitted to the federal government as part of the State's requirements to be eligible for funding. Sen. Katz said the amount people receive per month is something the State sets and, in theory, we could be paying less per month or more. Director Ashcroft did not know the answer to that question, but will find out for next meeting. DHHS at some point in FY16 started spending the TANF funds on things other than basic assistance. It is why there is an increase in the federal funds spent in FY17. It is not because that amount was being spent on basic assistance, but is basic assistance plus other things that DHHS had begun spending federal TANF funds on.

Rep. Pierce asked if DHHS' spending of TANF funds were spent on allowable things under the federal program. Director Ashcroft said it was.

Rep. Mastraccio believes that the Legislature passed in the last budget bill an increase, not just for CPI, but also an increase in the amount of TANF so that will be reflected in the future. Even though there are fewer people, the benefit is more and reflects the basic assistance needed in today's economy. Director Ashcroft said OPEGA will find out for the Committee's work session the amounts of assistance that are part of the picture.

Sen. Katz asked if OPEGA knew to what extent, if any, the legislative committee of jurisdiction was involved in any discussions about how TANF funds ought to be spent. Director Ashcroft said based on OPEGA's

understanding of the process she did not recall there was a point at which DHHS made OPEGA aware that they collaborated or conferred at all with the HHS Committee.

Director Ashcroft referred to DHHS's response letter to OPEGA's report. DHHS noted that OPEGA did not include in the Report and explanation of the criteria used for assessing that process. She wanted the GOC to know that it is the United States Government Accountability Office's standards for internal control in the federal government that was the basis for the criteria OPEGA used to judge the effectiveness of the decision-making and planning process.

Sen. Katz asked if you were to pull out the additional units which have been added because of the SNAP benefit, how much progress is Maine making with regard to eligible families. Director Ashcroft said OPEGA did not have those numbers. The perspective she did have is, for example, for the two parent family rate Maine was not meeting that until FY16 and that is because at that juncture DHHS found a way to include the worker supplement benefits in those calculations. Sen. Katz said in FY15 there was a participation rate of 28.6% and that jumped to 97.7% in the next year and asked if the Director had a sense if that was almost entirely attributable to the \$15 per month benefit. Director Ashcroft could not say that was definitely the case, but it would be reasonable to assume a large portion of it is. OPEGA will find out a little bit more about that.

Rep. Sutton notes from the Report that Maine has known for quite some time they were not meeting the workforce participation, at least since 2007 and she did not see why the State had not done more. The ASPIRE program was not working, but why wasn't it working, why couldn't we find people jobs or help them along that way. She asked if the Director had any information on why. Director Ashcroft said other than what they have described as challenges she did not. OPEGA had previously reviewed a program in the Bureau of Rehabilitation Services that had similar kinds of goals as ASPIRE. OPEGA did observe some things about that program that were impacting the success of it in getting and keeping people employed so anything she would have to say about it would come only from that review.

Rep. Pierce referred to the program participation rates referred to by Sen. Katz and asked if OPEGA could, for the Committee's work session, correlate what Maine's unemployment rate was in FY15 and 16. He said in FY15-16 the unemployment rate changed dramatically so he would be interested to see if that is why Maine has met the workforce participation rate. Director Ashcroft said OPEGA will break that information down a little more.

Rep. Mastraccio referred to DHHS's response letter saying it appears the Department does not agree. One of the reasons she thinks the GOC is here is because there were questions about TANF and there wasn't enough information provided by DHHS, but they do not really address that issue. She asked if DHHS planned to attend the public comment period on the TANF Report. Director Ashcroft did not know.

Sen. Gratwick wanted to note that he was unhappy with the federal TANF program. He is not happy with what the State has done with the program because he thinks there are too many people who are falling through the cracks. The statistics everyone has to be aware of is that over the last 6 to 8 years the percent of kids at the federal level for deep poverty, which is \$5,000 to \$7,000 a year, and has decreased in the United States by 4%, but in Maine it has increased by 13.6%. He said the question is why is Maine getting worse.

Sen. Gratwick said he was very appreciative of OPEGA's work in its review of the TANF Program, but he did not think it answers the questions that he had. He made several notes he wanted the Committee to deal with at the work session meeting. He referred to page 1, the data OPEGA focused on during the review of federal and State regulations and rules, interviews with relevant State employees, and analysis of enrollment data, expenditures, and contracts, but said there is no mention that OPEGA talked with the committee of jurisdiction. He thinks that is an important group to talk with. He did not see any mention in the Report of the recipients of TANF. Third, he said that Sandy Butler from the University has gone through some of the analysis of what happens to the people who have been dropped from this program and would be a good contact.

Sen. Gratwick asked for clarification on what really happens to the kids in a family where 1 adult has been dropped off and OPEGA writes "...TANF grant funds to provide assistance to families, that include an adult who has already received a lifetime total of 60 months of assistance . . ." and the sentence means to him that, for example, a single parent with 3 kids that the kids are out of luck because he is over the 60 month eligibility limit.

Sen. Gratwick referred to "OSA found that DHHS did not effectively monitor sub-recipients to ensure TANF funds were used for authorized purposes in compliance to federal statutes. . ." and said his understanding is the directive came from DHHS and not the sub-recipients themselves. He also referred to "Maine statute requires DHHS to report annually on the TANF program to the Legislature's Joint Standing Committee on Health and Human Services" and it was his understanding that was repealed about two years ago. Sen. Gratwick would like clarification on DHHS' reporting requirements.

Sen. Gratwick commented that there is more information needed about outcomes that was in the scope of the Report. What is Maine trying to do? The TANF program is trying to help low-income families, particularly kids. We adopted a policy in 2011 or 2012 with a benefit limit and we need to know if it is serving the citizens of Maine. He thinks the major question is if it is a good policy. He would like to know the percentage of people receiving SNAP over time. Are more people getting SNAP or food assistance? The GOC needs to know more about outcomes.

Sen. Gratwick asked if this is something we should be trusting the Legislature, OPEGA, or DHHS with or do we need more input from other independent groups to find out if Maine is succeeding in moving families out of poverty.

Sen. Gratwick referred to the Department's process for assessing the Program's effectiveness and the lack of transparency and said it is difficult to tell if the Legislature is getting good data. He is hoping now that OPEGA's TANF Report is public information the social scientists, social workers, the University, etc. will review the Report in detail because when the GOC has its work session on the Report he wants to know whether or not the larger question of whether Maine is helping low income people maximally with the monies they have available. Are we getting at the problem of poverty in this particular group and why has the national rate of poverty decreased while Maine has increased?

Director Ashcroft said that OPEGA will not have an answer for the work session for how effective the State has been in moving families out of poverty or the reasons why Maine's poverty rate is increasing while the nation's is decreasing. OPEGA has not done any work that would allow them to come back with an objective answer. She said it was not the scope of this particular review, although is a relevant question, but would require OPEGA to design a review to answer those particular questions and it is not an amount of work that could be accomplished between now and a work session. It would also require the GOC to task OPEGA with the project to answer Sen. Gratwick's questions. She did not see it as a natural follow-up type discussion about what action should be coming out of OPEGA's TANF Report. It is a matter in and of itself and TANF is only a small piece of the picture of what the State may or may not be doing to assist families with the poverty issue.

Rep. Mastraccio was hoping that at some point the GOC was going to have a discussion about what is driving this Committee to have to spend so much time on DHHS reviews. She does not know what is driving that and maybe it is something the GOC should look into. There is a bigger problem than just TANF and maybe it's just because it is such a massive department. Director Ashcroft said both OPEGA and DHHS have observed that they spend a lot of time on topics that have to do with DHHS. Rep. Mastraccio's question of what is the reason for that is an interesting one. Obviously it is a big department with a lot going on, but we have not stepped back and looked at what is driving the Legislature to want to know these various things and is there a more holistic way they should be approaching the review of the Department.

Sen. Katz believes a reason the TANF issue came before the GOC is because there is not a widespread understanding of how the Department was spending TANF funds and how the Department was proposing to spend TANF funds. OPEGA, in their Report, talks about more transparency so there will be a better understanding by the Legislature, and the general public, about how that money is being spent. For a future

discussion, Sen. Katz said DHHS is spending \$50 to \$60 million going forward on non-cash benefit payments under the TANF program and one question is who ought to be making that decision about how that money gets spent. One could argue that it should be with the Administration to make that decision, but one could argue it is a lot of money and it is the Legislature who ought to be making that decision. It is hard to think of to many areas in State government where, in a sense, the State has control of over \$50 or \$60 million, even though it is federal money, and the Legislature does not decide where the priorities are in that spending. There may be good reasons why it should be the way it is, but the Committee members should be thinking about that.

Sen. Katz said for the public comment period on the TANF Report, hopefully the Committee will at least get DHHS' Commissioner and/or other members of the Department. He noted that Rep. Hymanson, House Chair of the HHS Committee, was at the meeting and that Committee has a great deal of understanding and in-depth knowledge of the TANF Program so hopefully members of the Committee will be present. How Maine handles welfare is such a debated issue and he was hopeful that someone from the Heritage Policy Center would come to the public comment period to discuss the TANF program and also somebody from the Maine Economic Policy Center because they have both done quite a bit of work on the TANF Program.

Rep. Pierce appreciated OPEGA's Report because it gave a great understanding of how the TANF program has dropped off and Maine is starting to follow the federal guidelines. Because this is federal money he does not believe the Legislature should be involved in how to spend the money. He noted that the Program is temporary assistance and thinks 5 years is a long time. He asked if the Department was too big and should it be subdivided.

Sen. Gratwick thinks we are losing track of the larger issues. The Legislature is supposed to be looking at the larger issues that affect the health and welfare and preservation of families.

Sen. Katz agreed with both Rep. Pierce and Sen. Gratwick, but noted that OPEGA's review of TANF is narrowly reviewing the TANF Program only and they have done what was requested of them by the GOC. The Committee will hold a public comment period on the Report on July 26th. He thinks the HHS Committee understands the information contained in OPEGA's Report and he would encourage their colleagues in the Legislature to read the Report.

Rep. DeChant referred to the unused federal money and asked if it was being held in a federal or Maine account. Director Ashcroft said the money stays at the federal level and it is not until Maine uses it that it comes to the State. The money does not disappear at the federal level, but continues to be earmarked for Maine.

UNFINISHED BUSINESS

- **OPEGA Report on the Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home**

- **Continued Committee Work Session**

Sen. Katz said the GOC asked the Commissioner of DHHS to attend today's meeting, but noted the Commissioner was not at the meeting. He asked if Director Ashcroft had heard anything from the Governor's Office, or the Commissioner's Office regarding his attendance at the meeting. Director Ashcroft said the last discussion she had with the Governor's Office last week was they were still trying to make decisions about whether or if anyone from DHHS would be attending the meeting. She has not heard anything since that time.

Sen. Katz asked if the GOC could make an inquiry to the Commissioner's Office as to whether he is going to be at today's meeting and get an answer to that question before the Committee goes further.

RECESS

The Chair, Sen. Katz, recessed the Government Oversight Committee at 10:16 a.m.

RECONVENED

Sen. Katz reconvened the GOC meeting at 10:28 a.m.

Sen. Katz said that the GOC was continuing with the work session on OPEGA's Report on the Child Protection System. OPEGA was informed that the DHHS Commissioner was not coming to the meeting. He said there has been a history of the Administration not sending its representatives to this Committee, as well as other Legislative Committees, to help the Legislature do the people's work which is what the GOC is trying to do. A few weeks earlier the Governor was at the GOC meeting and looked everyone in the eye and told the Committee that he would have the Commissioner of DHHS here today. Sen. Katz said how dumb were we to take the Governor at his word and how dumb is the Committee to not have issued a subpoena for the Commissioner to be at this meeting. We are all supposed to be on the same team and all are shocked by the two child deaths and want to figure out how we can improve the system to make sure it does not happen again. The Commissioner is a vital player in all of that and the Committee is operating with at least one hand tied behind their backs trying to sort everything out without the Commissioner being at the meeting. The GOC was told by the Governor that the Commissioner would be at the meeting and he is not. This is not a good day for the Maine Legislature or Maine Government.

Motion: That the Government Oversight Committee subpoena the Commissioner of DHHS to appear before the GOC at its next meeting to testify as part of the Committee's continuing work to understanding and addressing areas for concern and improvement in the Maine Child Protection System. (Motion by Sen. Saviello, seconded by Rep. Pierce)

Discussion: Sen. Diamond noted that the weaknesses uncovered in OPEGA's Report are the very answers the GOC is seeking today. Without the DHHS Commissioner being at the meeting the GOC is going to walk away guessing a little more, but hopes it does not stop the Committee from taking the necessary steps to not drag this matter out over months. He is in full support of the motion and hopes to expedite the process.

Sen. Saviello noted that when the Governor appeared before the Agriculture, Conservation and Forestry Committee earlier in the session regarding a forestry issue he insisted that Committee send the matter to the GOC because it gets to the bottom of things and the truth. Yet to have the Governor act like this and not send his Commissioner of DHHS to this meeting is totally unacceptable.

Vote: Above motion passed by unanimous vote 9-0.

Rep. Sutton provided to the GOC a report from the Child Welfare Information Gateway regarding Penalties for Failure to Report and False Reporting of Child Abuse and Neglect. She noted that these topics had come up in previous discussions and she wanted to provide the information to the Committee so they could see what is happening in other states and what Maine might do to change and improve things here.

- Committee Vote

Motion: That the Government Oversight Committee endorse OPEGA's Report on Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home. (Motion by Sen. Saviello, second by Rep. Pierce, passed by unanimous vote 9-0.)

- Committee Work Session continued

Director Ashcroft referred members of the Committee to the two documents in their notebooks - Additional Information for GOC Work Session and Maine's Child Protection System Areas for Concern or Improvement Identified for GOC Consideration. (Copies of the documents are attached to the Meeting Summary.)

OPEGA did some brief research, tapped into whoever they knew might be resources for information, and put together what they thought would be helpful to the GOC. Director Ashcroft wanted to acknowledge that OPEGA was allowed to meet with DHHS and reviewed a lot of the provided information with the Department. DHHS employees explained the information they provided. OPEGA sent DHHS a list of questions on behalf of the GOC and she thinks the Department did a good job in providing some detailed data that was beyond what was expected in response to some of the questions. What she thinks is helpful, in particular, are the graphs and information about the Child Protective workload overview. Director Ashcroft said a lot of the information contained in the 2 documents came directly from DHHS.

Director Ashcroft summarized the Additional Information for Government Oversight Committee Work Session and Areas for Concern or Improvement Identified for GOC Consideration documents.

Sen. Diamond said one problem that OPEGA may be able to get more information on is the definition of reasonable suspicion or reason to suspect. He thinks the definition should be better understood or part of a statute that clearly states what it is and what triggers the report to become appropriate. Director Ashcroft noted that was referred to in A. 3. in the Areas for Concern or Improvement document.

Sen. Saviello asked if when OPEGA reviewed caseloads would they also be looking at the time management or hourly requirements of a worker? He has heard from DHHS employees that they used to work overtime because their caseload was big and were told there would no longer be any overtime, it would be comp time. So, for example, when they come back in after taking time off, their caseload had grown, but they had to take Monday and Tuesday off. He asked if that would be addressed in OPEGA's continued review. Director Ashcroft thinks OPEGA can capture that topic wherever it makes sense to. There are a lot of factors that go into a workload as opposed to a case load. Sen. Saviello asked that it be done because the people that have talked with him keep bringing up that they want to do the work, but can't because they are told they have to go home.

Sen. Diamond noted the other piece that goes with Sen. Saviello's concern is the support staff because the case workers are ending up doing the kind of things that an Assistant or Secretary might be doing which adds to the time it takes to do the job. He asked that be looked at as well. Director Ashcroft said OPEGA will make note of the issues that seem relevant and when the GOC discusses what the next review is going to be, she would like to revisit to make sure that everything is captured.

Sen. Gratwick was interested in a graph of the number of caseworkers over the last ten or twenty years, the number of cases and the number of workers. Director Ashcroft said those are statistics that OPEGA can analyze, but as mentioned before, she thinks there are a number of other factors beyond just the caseload size that are particularly relevant in Maine. For example, geographic considerations. Also looking to ARP to do the low and moderate severity allegation assessments which means that OCFS staff are left with the high severity cases. She thought DHHS gave an interesting view in the chart they provided of what critical case member loads are because one assessment might mean five different individuals have to be assessed. DHHS provided the number of critical case numbers that were currently within the caseloads they have had.

Rep. Mastraccio noted that the requirements in the beginning for ARP caseworkers was much more stringent in terms of their educational requirements and that became less over time because they could not get the workers they needed. That change was approved by DHHS. She wondered if part of what OPEGA would be reviewing is that DHHS is not letting ARP do assessments and why. Director Ashcroft said DHHS changed the educational requirements, but she did not know why they were changed. OPEGA had a similar inference that the change had to do with their ability to get staff that had those credentials, but also their explanation is

that the level of work that they were looking for the ARP providers to do did not necessarily require the level of credentials that had been previously in the contract. The original contract was in 2016 and the amendment was in November of 2016. Since that time ARP has been doing assessments on low and moderate severity allegation reports that are received. There is a plan by DHHS to move away from using ARP for assessments, but currently because of the increased workload that has come in as result of what is currently going on, they need to keep using ARP to do assessments. DHHS expects to take on the workload that they have been contracting out to ARP, but would require an increase in case workers and supervisors. Director Ashcroft thinks the plan is to be moving toward increasing the number of caseworkers and supervisors with the idea of moving away from ARP as an assessment capacity.

Rep. Mastraccio wanted to conform Maine does have people doing assessments for low to moderate severity allegations with less qualifications than were originally sought and that has been going on for a couple of years. Director Ashcroft agreed.

Sen. Diamond said caseworkers often times have been limited by the amount of work they can do because of the funds so would he ask OPEGA to check that out. His concern is that you look at ARP and think it is part of the program and is always there. We need to know how much ARP is being used. Director Ashcroft paraphrased that as being about to what extent is the workload being shared with ARP. Sen. Diamond agreed and he also was interested in what happens if the ARP units contracted for run out before the end of the contract time period. Are they just not doing more assessment? Director Ashcroft said she was also aware that DHHS monitors the performance of those providers and may make decisions about not continuing with some. He wanted to know if there are low to moderate cases that are not being looked at because ARP is not available and child protective workers are too busy with high risk cases. Director Ashcroft noted that OPEGA did ask DHHS how they are currently managing the increased workload given that they only have the same number of resources. The Department explained that, in part, they are using caseworkers and supervisors that are normally in the Permanency and Adoption Units to do assessments as they all received the training that is required. DHHS is shifting resources among units as needed to try to meet workload demands.

Rep. DeChant referred to truancy and said the current statute states that under age 7 there is not any exploration into truancy. She asked if that was something that could be changed and could it be a possible next step. She said the truancy laws were shocking to her because there is a good gap of potential evidence that is worthy of investigation that is now, by law, not even taken into consideration. Director Ashcroft said there are truancy laws. Truancy is established and there are various criteria for when children of different ages are seen as truant. When is truancy considered to be child abuse and neglect has a narrower definition which governs when a truancy situation is considered child abuse and neglect that DHHS would consider as an intake report and find appropriate. Director Ashcroft said Rep. DeChant was correct, but she wanted to be clear that it is not that we don't have more comprehensive truancy laws that cover other ages of children, but there is a discreet subset of the truancy piece that is considered child abuse and neglect as defined in State statute.

Rep. DeChant asked if truancy was dictated by the age requirement. Director Ashcroft said the criteria is a combination of age and what grade level the child has achieved. Rep. DeChant said if a child is in pre-school or kindergarten and misses a lot of time that falls under truancy, how does it cross the bridge into child welfare. Director Ashcroft said that is where she is not clear about whether the younger age groups are covered by the truancy laws. She will get back to the Committee with that information.

Sen. Katz said his understanding is that there is no law that kids under the age of 7 have to be in school period. So there is a question of whether extended truancy for those who have to be in school is abuse, but the larger question is if the evidence of significant truancy a risk factor. Not that it is abuse in itself, but is a red flag that ought to trigger someone taking a look at the situation. Director Ashcroft noted that the truancy is based on unexcused absences so there is a piece on having extended absence from school excused and that is where you should verify excuses, even the excused absences.

Rep. Mastraccio said we increased our preschool and all-day kindergarten programs, but by law, they don't even have to go to school until they are 7 so makes it difficult for school districts to say someone is absent if

you do not have to send your child to school. If the child is in a preschool program and absent for weeks at a time, they cannot say you are truant. She thinks if Maine is going to have all day preschools and kindergartens that the Legislature might want to look at the truancy laws and make sure they apply to younger kids so it can be seen when they are absent for long periods of time. She is afraid the kids are not being able to be followed by the school district. Director Ashcroft said there are two things that would have to be considered. One is the truancy and the coverage it has for various age groups and whether or not there are any gaps there. There is an extra piece about when is that a situation that is considered child abuse and neglect.

Sen. Gratwick said there is a specific number of days, he thinks 18 days, as a cutoff. If you are absent for more than those, it is truancy and that then goes to further evaluation from DHHS. He would be interested in the specifics regarding that.

Rep. Pierce thinks there is confusion about the truancy laws and asked if Director Ashcroft could send Committee members an email with a breakdown of the law. Director Ashcroft said she will email the GOC what information OPEGA has on truancy.

Rep. Sutton said from the Report she provided to the GOC what she was able to glean is that some of the other states that do have penalties for failure to report. Rather than use the terminology "reasonable cause to suspect" as the definition, they refer to it as "willfully or purposely failing to report". That is a distinction that could be made when looking for some changes.

Rep. DeChant said DHHS's computer system (MACWIS) was identified as a challenge. The system has been failing for about 16 years. She asked if replacement of the system was the complete responsibility of the Executive Branch. From the previous TANF discussion regarding the federal money available, she asked if some of the TANF funds could be used for computer system upgrades. Director Ashcroft said MACWIS is something that potentially belonged in the section of addressing various areas of concern. OPEGA did make observations and recommendations about the usefulness and usability of that system in the report they did on Children's Licensing. OPEGA talked with DHHS at that time about the efforts they were making and were well aware at that time that they were looking to replace MACWIS. DHHS has been deciding what to do about a new computer system since at least that time. Rep. DeChant asked if there was a timeframe on it. Sen. Katz said sometime later in the session the Administration put in a bill to appropriate \$9 million for a new computer system. It was deemed to be too late in the session to effectively get it referenced to Committee and heard so he does not think the bill is still alive.

Rep. DeChant asked if the money could be used from the TANF fund for child welfare for a new system. Director Ashcroft she will ask that specific question to DHHS.

Rep. Sutton said the GOC has discussed criminalizing failure to report. She said the majority of the states appear to have laws in place for reporting fraudulently and although you do not want to discourage people to report, she has heard several times about people having a grudge against a spouse and making a report to DHHS. Obviously that takes a great deal of time for the Department when they could be doing other things.

Sen. Diamond asked when there is staff turnover the workload has to go somewhere else and caseworkers have been told they cannot work overtime so the whole system gets more clogged. He asked if OPEGA could look at that as well because he thinks it is a real problem.

Sen. Gratwick referred to home schooling because it is different than truancy. A parent can say they are going to home school their child and asked if that is truancy or are they truly doing home schooling. Director Ashcroft said OPEGA has heard home schooling being a concern with regard to how it impacts the Child Protective System. It is clear from the cases OPEGA reviewed that schools are a primary mandated reporting avenue and are the folks who have eyes on children in meaningful ways on a regular basis.

Director Ashcroft noted that the GOC has requested that OPEGA look at a lot of items and that is a lot of ground to cover. We need to work on what the expectations are for what the Committee wants OPEGA to try

to encompass in a second review. We also have to decide whether there is any of this that does not need an OPEGA review, but somehow needs some other action to move it to a solution or an improvement. If the GOC is looking for whatever OPEGA does next to have a quick turnaround, then it needs to be scoped as narrowly as possible. It may be better to tackle it in small reviews rather than trying to do a large review all at once. That would mean out of all of the areas mentioned earlier, picking out which of them is the best first place to start that would make the most difference. The Director said from OPEGA's perspective, there are many areas where we do not have sufficient information to be able to make recommendations to the GOC about what could or should potentially be considered for changes or improvements. There are other areas where she thinks OPEGA might be ready to try to tackle some sort of solution and may not need OPEGA to be establishing what the root causes are or be doing any more analysis on. The question then is who is the best person or entity to be doing the next piece of moving us to a place where we have a solution or make improvements.

Sen. Katz said, unfortunately, he thinks the Committee's process would be a lot further along if the DHHS Commissioner had been at the meeting because his perspective on the issues would be important. As the GOC enters this part of the discussion, if there are no-brainers to do in a certain way, let's do it, but he thinks a lot of the decisions need to wait for an active dialogue with the Department before the GOC decides. Sen. Katz did not want to commit OPEGA resources at this point with only half the knowledge.

Rep. Pierce asked if Director Ashcroft could layout the no-brainers that the GOC could move on. Director Ashcroft said she would not categorize them as no-brainers. She would describe them as items that are at a stage where she is not sure additional OPEGA analysis, research or understanding of the matter is necessary.

Director Ashcroft said she would put A. 1. and A. 3. in that category. There would be additional work to do, but someone could take the next step of identifying improvements that can be made in the mandated reporter training and guidance available for mandating reporting. It would be a reasonable thing to think that we may want to look at what is being done currently in the context of best practices, or evidence based practices, with input from some experts the Committee heard from in the public comment period. Making sure it is comprehensive in terms of all the different types of child abuse and neglect that are specified under Maine statute with an understanding of the various roles different mandated reporters play. Looking at whether we are doing enough with regard to training and have we got the right approach.

Number 3 is specifically about defining "reasonable cause to suspect". Director Ashcroft did not know what else OPEGA could do other than say this is a subjective area of statute and one can see reasonably why mandated reporters in different fields would have a different way of viewing this. OPEGA has pointed out that there needs to be more guidance around it, at least in training, if not in statute.

Sen. Gratwick said certain things are objective, i.e. going back to truancy, if there is a number of days missed that would seem like something that would fit into that. The number of times 911 goes to your house, everything looks fine, but it is 3:00 a.m. in the morning. Director Ashcroft agreed and said for example, the truancy issue is a hard and fast criteria as to when it meets the definition. It seems to her a matter of adding situational criteria or finding some other approach that would give people boundaries around what is reasonable cause to suspect.

Rep. Mastraccio asked the Director what would be the best way to get to that information and how do you involve the kinds of experts that testified at the public comment period that had ideas of what could or should be done. Director Ashcroft did not know. Certainly the Committee could task OPEGA to try to do these and as part of that work they would be drawing in whatever seemed to be the appropriate resources and research to do in order to come back with specific recommendations. If OPEGA was doing this work, however, then they are not doing some of the other work that does require getting to root causes, etc. She does not know all of the avenues that might be available.

Rep. Mastraccio asked about using an outside consultant because it is outside the system. OPEGA could put out an RFP for somebody to do a scope of work that includes this.

Rep. Pierce thought the report provided by Rep. Sutton is a good first start and could look to what other states are doing that have been more successful than Maine in preventing child abuse. Director Ashcroft said reviewing what other states are doing is a multi-layer question. First they have to figure out whether there is any basis to establish which states are successful at it. Unless there is already somebody out there who has deemed “X and Y” states as the successful model, then OPEGA has to come up with criteria that allows them to select the states they are going to compare to. OPEGA often finds when comparing Maine to other states that every state has nuances that make it difficult to do an apples-to-apples comparison. OPEGA can do a straight comparison of other states’ laws to Maine’s laws but that is still a resource intensive effort.

Sen. Diamond said Maine can have a great definition for reasonable suspicion and it will be put in the law, but he thinks the more important piece right now is they are not getting to reasonable suspicion because they can’t get to it in many cases. You are then back to the black hole where these things just fall in. He wants the Committee to come up with a good definition, but hopes they can find a way to deal with the issue of whether DHHS can get to all the cases. Director Ashcroft wanted to confirm that Sen. Diamond thinks a higher priority is to determine how we help OCFS deal with the workload. He agreed.

Rep. Mastraccio agreed with Sen. Diamond. She does not want to use OPEGA’s resources to do those things that, for her, are a longer term piece of looking at where we are going to go. To address the immediate issues of how are we going to help DHHS address training and staffing issues are more critical.

Sen. Saviello supported Rep. Mastraccio’s request except for hiring a consultant. It needs to go to the committee of jurisdiction. The GOC comes up with the recommendations, but as they look at what is necessary into the future, he thinks you have to turn to the committee of jurisdiction. If the GOC gives the committee of jurisdiction suggested legislation, they are the ones that need to move it forward.

Rep. Sutton knows that everyone is frustrated and wants to do something, but if positions are available at DHHS and jobs are being posted, but nobody applies for them, how do you reasonably expect to fix that problem.

Rep. Mastraccio said as a member of the LCRED Committee, one of the issues heard on that Committee is pay and the competition for workers. We may find out that workers in the private workforce are being paid significantly more than State workers are in the same positions. She doesn’t know that for the DHHS caseworkers and is not saying she has data in front of her to support it, but she knows in every industry people are competing for the same workers. She does not know why DHHS has staffing problems and maybe it is a culture issue in the workplace, but we need to find out the reasons. After the last GOC meeting she had constituents call her to tell their experiences when calling DHHS. One person hung up because they waited so long, another person never got through, and another person waited an hour on the phone. There are issues the GOC can deal with and can deal with now.

Sen. Saviello wanted to add to Rep. Mastraccio’s comments and said for him it is answering the question about what resources DHHS has and goes back to what Sen. Diamond said. We seem to be focused on the caseworkers and supervisors, but what about the support staff. Are they gone? What about the workloads and what happens when they are told to stay home because they have exceeded their overtime basis. What happens to the workload when somebody leaves? What training have they been through and what is the work environment? He said those are the kinds of questions the GOC can ask. What is the root cause for why the vacancies can’t be filled? Pay is part of it, but sometimes pay is not always it, it is the satisfaction of doing the job and doing it well that makes a big difference.

Rep. Pierce asked what can the GOC be working on now before they talk with the DHHS Commissioner. Retention of staff, training, recruitment, and support staff are all questions that the Committee needs to ask the Commissioner about. As of now the conversation has strayed from what the OPEGA staff can be working on now and he would like to focus the Committee back to that conversation. Everyone agrees that training, recruitment, retention and support staff are all great things, but we do not know what is going on and what the

Department's policy is. What can the GOC do today to get this moving along and then when they meet with the Commissioner it will give them a better idea whether they should be looking to hire consultants.

Rep. DeChant seconded asking the Commissioner the questions regarding his staff and agreed with doing a survey or having a focus group. She believes the Commissioner can answer a lot of the Committee's questions and there is value in getting the feedback from the workforce.

Sen. Diamond does not have confidence in the Department's initiatives as ways of addressing the issues. He knows that all OPEGA can do is report them. He does not have confidence in the generic initiatives and how effective they are. It seems to him like the Department is just buying time. He hopes the Commissioner will come to a GOC meeting to answer more specific questions rather than referring to the generic initiatives.

Rep. Sutton liked the idea of an internal survey mentioned by Rep. DeChant. If it could be done in a way that the anonymity of the people responding to the survey is protected, that would be the best place to get information from.

Director Ashcroft suggested a couple of possibilities. One was to see about some sort of effort to gather frontline worker thoughts, particularly around things that impact retention, effectiveness and efficiency in employees performing their jobs. OPEGA had pointed out that those were places we wanted to understand the factors better and would be important work to do first. That could involve new surveys, focus groups or review of information already captured from workers via those sorts of avenues.

Rep. Mastraccio asked if OPEGA would also ask DHHS staff to assess their training and whether they feel the training helped them in being well prepared for the job. Director Ashcroft believes that would be a factor. There are a lot of different ways OPEGA could go about getting that input. It is also another area we could potentially hire a consultant to do the work, but that would take a process of putting out an RFP to select somebody to do the work, etc. Rep. Mastraccio's concern is that she wants to make sure DHHS is not doing that survey. Director Ashcroft said DHHS would not be doing the survey. The Department has done some surveys in the past and there might be some initial information that OPEGA can gather about what they covered in the surveys to see if anything in those results would be helpful.

Director Ashcroft said the other idea is to get much more specific information on the initiatives that DHHS has laid out. While the GOC can have the Commissioner at a meeting to ask him questions, she thinks there could be additional value to OPEGA trying to understand, in particular, what the current status is of them and how they are impacting, or not, the various areas that were identified in the Information Brief. Assuming OPEGA has the ability to have open discussions with some of the DHHS management level workers who are responsible for implementing the initiatives, OPEGA would then have additional information about what might be worth pursuing further. The Committee might also request that DHHS do report backs on their progress similar to what was done with Children's Licensing.

Sen. Diamond knows you can access the number of reports that become inappropriate, but asked if you can assess the number of appropriates that just don't go any further. A report comes in and nothing happens so there is never an assessment made. Director Ashcroft did not know how that would be done without OPEGA doing its own independent case reviews. They could ask DHHS for numbers, but she thinks they are going to say there is an assessment of every appropriate report in some way or another. She did not know how they would identify whether it had been deemed appropriate, but did not get assessed without looking at individual cases. Sen. Diamond knows that happens and maybe the survey will help with getting answers to that question. Director Ashcroft thought he was getting at another area that she thought was critical in the work that OPEGA has already done, which is how well is DHHS assessing risks. How well are we assessing whether this is an appropriate or inappropriate report that is coming in? The current standard DHHS is using for determining appropriateness is whether it meets the definition of child abuse and neglect under statute.

Sen. Katz gave the example of prolonged truancy and we might not want, as a legislature, to include that in the definition of child abuse, but might want to say that it is a red flag that ought to be investigated to see if there is some other type of child abuse.

Sen. Katz said what he has heard for the GOC's next steps is to explore the idea of an employee survey and secondly to have OPEGA look more into the specifics of the actions the Department indicates it is going to be taking. He hopes the GOC can move ahead with OPEGA developing the survey instrument rather than putting it out to bid because that would slow things down. Other members of the Committee agreed.

Rep. DeChant asked what the process was. The GOC will have another work session and then is the GOC's objective to submit legislation before January. Sen. Katz thinks what is contemplated is if there are some discreet things the Committee might want to recommend by statute, they will do so. Sen. Diamond felt we need to explore the possibility of a special session, but he does not think there is any appetite for the Legislature, as a whole, to do that, but the Governor could call the Legislature back in.

Rep. Pierce said the Committee talked about A. 1 and A. 3 in the Areas for Concern or Improvement document as something to be worked on and thought some suggestions for changing definitions might be part of that.

Director Ashcroft said let's assume that a topic has come to the GOC for consideration and the Committee is trying to decide whether to put it on OPEGA's Work Plan and what the general scope will be. That is what the Committee is working toward here – what is the next project related to child protective that will be added to OPEGA's Work Plan. Sometimes the GOC considers asking OPEGA to gather additional information to help them make the decision about what they want that project to look like. That is where she thinks the Committee is. If OPEGA is going to gather frontline input, she thinks it might make sense for the GOC to vote to put the review on OPEGA's Work Plan as a special project so they have a definite beginning and ending point.

Director Ashcroft said OPEGA has other topics on its Work Plan and asked the Committee how quickly they wanted the information in comparison to, for example, getting started on the Department of Labor Unemployment Claims review.

Rep. Mastraccio was struggling in how the GOC uses OPEGA's resources and not wanting to let other review topics get lost. The Committee knows that OPEGA has not had enough resources and there is a lot of other reviews they are waiting for still. Director Ashcroft did not think any resources spent on gathering and understanding frontline perspectives in subject areas the Committee talked about would be wasted because they would be factors that would help inform where else we need to be spending time. She thinks that is a good worthwhile first step.

Motion: To add to OPEGA's Work Plan a special project to 1) gather input and perspectives from OCFS caseworkers and supervisors on factors impacting staff retention and efficiency and effectiveness of child protective work and 2) assess status of current DHHS child protective initiatives on and their impact on noted areas for concern or improvement. And further to direct OPEGA to begin this project right away. (Motion by Rep. Mastraccio, second by Rep. Rykerson)

Discussion: Rep. Rykerson said given that the work might be independently contracted, wanted to add to the motion that it does become a priority so the Committee would know what the work would be for their next meeting.

Rep. Mastraccio agreed to a friendly amendment to the motion to say the Chairs will work with Director Ashcroft to determine exactly how that is going to happen.

Sen. Diamond said the priority missing is that we all know there are kids currently being abused, but have not died yet, and there is little appetite for a special session. He asked the Governor if the GOC came up with anything would he call the Legislature back in the fall to deal with the issue. That elevates the issue, it brings it to whole new level of concern that they are expressing as a committee. It makes a statement that we are

going to do something now because the situation is so important and the Governor said he will work with us to get that done.

Rep. DeChant asked if the Committee passed the pending motion and it is a special project that is put on OPEGA's Work Plan, what sort of life cycle does it have? Because we are going to be heading into a new Administration perhaps the results, questions and responses might have some sort of impact on that.

Director Ashcroft said what the GOC would be tasking OPEGA with is to gather an understanding of factors from a frontline perspective effecting "X,Y, and Z". OPEGA is going to figure out what is the best methodology by which to gather that input. It may be a survey, focus groups, or interviews with a sample of workers. OPEGA is going to do some planning about how to bring back an objective view of that for the Committee. Depending on what the work will be would dictate what the life cycle would be.

Sen. Saviello said he was going to be voting against the motion because he thinks they have to have the Commissioner at a meeting talking about how DHHS is progressing before a survey is done. He suggested that the GOC meet earlier in July for that purpose.

Rep. Mastraccio wanted to convince Sen. Saviello why she thinks the GOC needs to let OPEGA start working on this matter. We have a Director who is leaving and she would like to know that there is going to be some kind of crossover. She also did not know if anything the Commissioner might say will convince her otherwise that the Committee does not need to find out that information. She would rather give OPEGA a head start on the work and would encourage Sen. Saviello to vote in favor of the motion because she thinks it is important to give them a start on the work before Director Ashcroft leaves.

Several Committee members suggested that the GOC meet twice in July. Sen. Katz suggested that the Committee meet on July 10 and July 26, 2018. Sen. Saviello noted he would support the pending motion with an amendment that the GOC meet July 10 and 26.

Rep. Mastraccio and Rep. Rykerson agreed to the friendly amendment.

Director Ashcroft clarified that the GOC voted to put the special project on OPEGA's Work Plan under the condition that the Committee is going to meet in July and subpoenaed the DHHS Commissioner to be at the July 10th meeting. She did not think when the Committee was going to meet needed to be added to the Motion because the Committee wanted to add the topic to OPEGA's Work Plan regardless.

Vote: That above Motion passed by unanimous vote 9-0.

REPORT FROM DIRECTOR

• Status of Projects in Progress

Not discussed.

• Status of Director Recruitment

Director Ashcroft reported that the recruitment for the OPEGA Director position has been filled with the Legislative Council appointing Danielle Fox. Ms. Fox is currently an Analyst with OPLA. She said she is pleased that OPEGA was getting someone with so much legislative experience.

Ms. Fox said she is excited for the opportunity to serve the GOC and to serve the Legislature in a new way and grateful for the opportunity.

The GOC welcomed and congratulated Ms. Fox to her appointment of the OPEGA Director and looked forward to working with her.

NEXT GOC MEETING DATE

The next Government Oversight Committee meeting is scheduled July 10, 2018 at 9:00 a.m.

ADJOURNMENT

The Chair, Sen. Katz, adjourned the GOC meeting at 12:22 p.m. on the motion of Rep. DeChant, second by Rep. Pierce, unanimous.

Maine's Child Protection System

Areas for Concern or Improvement Identified for GOC Consideration

June 28, 2018

From OPEGA Information Brief

- A. Guidance and training for mandated reporters, including expectations of what constitutes “reasonable cause to suspect” for those in various roles

Potential Next Steps

1. Assess content of DHHS-approved training, training delivery avenues, frequency of training, training roles and responsibilities, and communication regarding required training to identify potential improvements taking into consideration:
 - scope of what constitutes child abuse and neglect in Maine statute;
 - “best practices” / evidence-based practices;
 - other states’ approaches to training; and
 - roles, perspectives and environments of various categories of mandated reporters.

Note that OPEGA currently has not gathered any information on the extent to which “best practice” and expert advice has already been considered in developing the current Department-approved mandated reporter training or how recently training content has been re-assessed for needed updates.

2. Determine extent to which current mandated reporters are obtaining Department-approved training and factors impacting whether they are complying with statutory training mandate.

Note that this would likely involve gathering input from various mandated reporters and/or comparing training records maintained by DHHS to lists of licensed professionals or those associated with various organizations.

3. Define “reasonable cause to suspect” or otherwise establish expectations or situational criteria of what constitutes “reasonable cause to suspect” - perhaps framed around known high risk factors for child abuse and neglect (possible statutory change and/or inclusion in mandated reporter training).

Note that:

- a. Mark Moran, LCSW and Chair of the Maine Child Death and Serious Injury Review Panel, provided three study reports and an article on the topic of “reasonable suspicion” as it pertains to child abuse and neglect. The three studies, taken together, found that among pediatricians, pediatric residents, and experts on child abuse, there was no consensus on how “reasonable suspicion” (or a similar term) is interpreted, defined, and applied or how likely abuse must be before reasonable suspicion can be said to exist. The article provided identified that all states have similar statutory language and that interpreting what constitutes reasonable suspicion and determining when suspected child abuse should be reported will remain difficult until steps are taken to specify estimated probability that constitutes reasonable suspicion and to create systematic and effective strategies for training mandated reporters about reasonable suspicion.
- b. OPEGA did not observe any meaningful guidance on what constitutes “reasonable cause to suspect” in the DHHS-approved mandated reporter training currently posted on the web.

- B. Timeliness of OCFS Intake in answering calls coming into the statewide, toll-free number for reporting child abuse and neglect.

Potential Next Steps

1. Determine extent to which calls to Intake are being answered in a timely manner and understand factors impacting timely answering of calls.
2. Determine extent to which Intake is receiving child abuse/neglect reports via avenues other than the statewide, toll-free number, how timely Intake is responding to those reports and understand factors impacting timely response to those reports.
3. Assess status and effectiveness of DHHS' recent initiatives in improving timeliness of Intake response to calls and reports via other avenues.

Note that the potential next steps likely involve obtaining and analyzing data. OPEGA has not explored to what extent DHHS is already producing relevant statistics that might be used.

- C. Timeliness and comprehensiveness of OCFS (Intake and Assessment) and ARP assessments of risk for a child or family and junctures at which a comprehensive re-assessment of risk could be or should be conducted.

Potential Next Steps

1. Determine timeliness and comprehensiveness of risk assessments conducted by Intake upon receipt of reports of potential child abuse/neglect and understand factors impacting timeliness and comprehensiveness of Intake assessments.
2. Determine timeliness and comprehensiveness of child protective assessments conducted by District offices and understand factors impacting timeliness and comprehensiveness of these assessments.
3. Determine timeliness and comprehensiveness of assessments conducted by ARP providers and understand factors impacting timeliness and comprehensiveness of ARP assessments.
4. Assess status and effectiveness of DHHS' recent initiatives in improving timeliness and comprehensiveness of child and family assessments.

Note that all of these potential next steps likely involve review of records for a sample of reports/assessments and/or obtaining and analyzing relevant data. OPEGA has not explored to what extent DHHS is already producing relevant statistics that might be used.

- D. Appropriateness of caseloads and adequacy of supervision and training for OCFS and ARP staff.

Potential Next Steps

1. Determine appropriateness of caseloads/workloads for OCFS caseworkers and supervisors in OCFS Intake, Assessment, Permanency and Adoption and understand factors impacting workload.

Note that caseload and workload are different concepts. There are many factors that impact the workload associated with individual cases that would need to be considered. An analysis of just caseloads (# of cases/# of workers) may not be meaningful. The factors that impact workload would need to be considered in any comparison of Maine caseloads to national standards.

2. Determine adequacy of training for OCFS caseworkers and supervisors and understand factors impacting training.
3. Determine adequacy of supervision of OCFS caseworkers and understand factors impacting supervision.
4. Determine appropriateness of caseloads/workloads for ARP caseworkers and supervisors and understand factors impacting ARP workload.
5. Determine adequacy of training for ARP caseworkers and supervisors and understand factors impacting training.
6. Determine adequacy of supervision of ARP caseworkers and understand factors impacting supervision.
7. Assess status and effectiveness of DHHS' recent initiatives in addressing OCFS caseload/workload concerns.
8. Assess status and effectiveness of DHHS' recent initiatives in improving training for OCFS caseworkers and supervisors.
9. Assess status and effectiveness of DHHS' recent initiatives in improving supervision of OCFS caseworkers and supervisors.

Note that caseload and workload are different concepts. There are many factors that impact the workload associated with individual cases that would need to be considered. An analysis of just caseloads (# of cases/# of workers) may not be meaningful. The factors that impact workload would need to be considered in any comparison of Maine caseloads to national standards.

Note that determining adequacy of training may involve review of training content against best practice/evidence-based practice and/or DHHS policy and procedures. Also potentially would involve review of training records for individual caseworkers and supervisors. OPEGA has not yet gathered any information on the extent to which DHHS training curriculum for caseworkers and supervisors already includes consideration of best practices and/or expert input.

Note that determining adequacy of supervision may involve review of case records.

- E. Compliance with policies and procedures, and consistency and appropriateness of decisions made, by caseworkers and supervisors in OCFS Intake and District Offices.

Potential Next Steps

1. Determine extent to which OCFS caseworkers and supervisors are complying with established policies, procedures, laws and regulations in the handling of child abuse/neglect reports, assessments and cases.
2. Determine extent to which decisions made and actions taken by OCFS case workers and supervisors are appropriate and consistent across reports, assessments and cases.
3. Assess status and effectiveness of DHHS' recent initiatives in improving compliance with policies and procedures among OCFS caseworkers and supervisors.
4. Assess status and effectiveness of DHHS' recent initiatives in improving consistency and appropriateness of decisions among OCFS caseworkers and supervisors.

Note that these potential next steps would likely involve review of records on reports, assessments and cases.

Note that assessing appropriateness would require establishing criteria for appropriateness to compare to. Also that assessing appropriateness and consistency could be focused on specific OCFS units, i.e. Assessment. It would also involve assessing across all District offices.

- F. Compliance with contractual obligations, and consistency and appropriateness of decisions made, by ARP caseworkers and supervisors.

Potential Next Steps

1. Similar steps to Item E above.

- G. Factors that impact OCFS or ARP decision-making on appropriate action to take in response to assessed risk levels, and information received or situations observed with a child or family.

Potential Next Steps

1. Understand factors impacting OCFS decision-making in assessing risk and determining actions to take in response.
2. Understand factors impacting ARP decision-making in assessing risk and determining actions to take in response.

Note that it may be useful to have this understanding to inform decisions on what particular aspects of the Child Protection System should receive further review or consideration. Potential avenues for gaining this understanding include conducting surveys of, or focus groups or interviews with, caseworkers and supervisors.

- H. Extent to which OCFS and ARP monitor whether families are participating in voluntary services intended to reduce risk of child abuse and neglect and take action when they are not.

Potential Next Steps

1. Determine extent to which families referred for voluntary services are receiving them and extent to which there are resulting improvements in risk of child abuse/neglect. Understand factors impacting whether families are participating in services.
2. Determine extent to which OCFS is monitoring whether family is cooperating/receiving voluntary services and what actions are being taken when a family is not receiving services.
3. Determine extent to which ARP is monitoring whether family is cooperating/receiving voluntary services and what actions are being taken when a family is not receiving services.

Note that these potential next steps would likely involve review of case records.

- I. Extent to which mandated reporters, OCFS and ARP seek to verify, and can verify, information reported by a child's parents.

Potential Next Steps

1. Establish expectations/requirements for when schools should require parents/guardians to provide documentation supporting reasons for frequent or extended absences from school whether excused or unexcused and regardless of age. (possible statutory change)
2. Explore possible options for facilitating a school's ability to independently verify, directly with health care providers, health care information on a student provided by a parent/guardian.
3. Understand how home schooling impacts effectiveness of child protection system.

- J. Effectiveness of child protection system in identifying and responding to child abuse/neglect risks that are not considered to be imminent physical safety risk, i.e. emotional maltreatment, neglect, truancy.

Potential Next Steps

1. TBD

- K. Extent and manner of communication and information exchange among the various key entities that are part of the child protection system including schools, law enforcement, health care providers, counselors and therapists, community service providers, OCFS Intake, OCFS Field Offices and ARP providers.

Potential Next Steps

1. Establish expectation/requirement that schools share information on observed risks for child abuse/neglect, including reports and involvements with DHHS, for students transferring to another school.
2. Explore barriers/challenges and options for facilitating/requiring sharing of information on potential or actual abuse/neglect risks and actions for a child among key mandated reporters including:
 - DHHS to reporters on actions taken on reports they made;
 - DHHS notification to schools, law enforcement and health care providers when assessments/cases are opened and closed; and
 - Between and among law enforcement, schools, health care providers and DHHS.

From Public Comment

- L. Strengthen Maine's mandated reporter laws and establish means to hold mandated reporters accountable for meeting reporting and training requirements.

Potential Next Steps

1. Determine whether other states mandated reporter laws have aspects that Maine should consider adopting.

2. Establish expectation/requirement that mandated reporters who are licensed or certified professionals must have obtained statutorily required training before obtaining licenses or certifications.(possibly statute change

Note this has been considered in two past bills but not enacted. Proponents cite potential issues with implementation and monitoring of compliance with such a requirement.

3. Establish criminal penalty for mandated reporters who fail to report.

Note that this has been considered in a past bill and was not enacted. Current statute currently has a civil penalty. Public commenters at the GOC meeting on May 31st expressed concern about how this would be meaningfully implemented/operationalized. OPEGA observes that it would seem necessary to specify/define “reasonable cause to suspect” before establishing a criminal penalty.

- M. Ensure that child’s best interest is primary consideration in all child protection actions and decisions.

Potential Next Steps

1. Assess impact of recent statute change from LD 1187 that defines child’s best interest in child protection statutes and whether additional statutory changes may be useful for clarifying child’s best interest is primary for DHHS and courts.
2. Understand how federal laws and regulations are impacting DHHS and court decisions/actions with regard to child’s best interest and family rehabilitation and reunification.
3. Understand what factors are impacting decisions and actions by OCFS caseworker and supervisors – see Item G.

- N. Address barriers/challenges impacting OCFS caseworkers’ and supervisors’ effectiveness in performing assigned functions.

Potential Next Steps

1. Understand factors impacting OCFS caseworkers’ and supervisors’ effectiveness in performing assigned functions.

Note that this understanding may be gained from work done in addressing other potential areas for concern and improvement as noted by OPEGA. Other potential avenues for gaining this understanding include conducting surveys of, or focus groups or interviews with, caseworkers and supervisors.

- O. Address challenges/factors impacting retention of OCFS caseworkers and supervisors.

1. Understand factors impacting retention of OCFS caseworkers’ and supervisors’.

Note that this understanding may be gained from work done in addressing other potential areas for concern and improvement as noted by OPEGA. Other potential avenues for gaining this understanding include conducting surveys of, or focus groups or interviews with, caseworkers and supervisors.

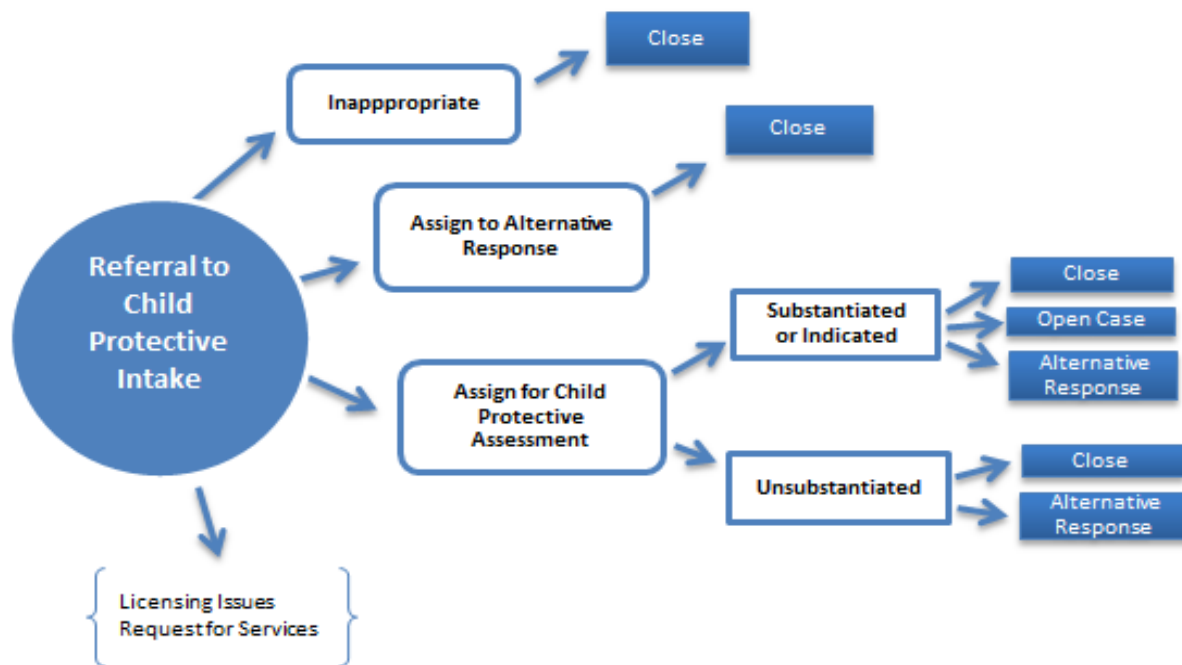
Additional Information for Government Oversight Committee Work Session

OPEGA Information Brief on Maine’s Child Protection System: A Study of How the System Functioned in Two Cases of Child Death by Abuse in the Home

June 28, 2018

Office of Child and Family Services (OCFS) Response to Reports of Child Abuse/Neglect

Process Description as Taken from OCFS 2017 Child Protective Services Annual Report



A referral is any written or verbal request for Child Protective Services intervention, in a family situation on behalf of a child, in order to assess or resolve problems being presented. When reports are received, a decision is made regarding whether or not the report contains allegations of abuse or neglect per Title 22. If the report does not contain allegations of abuse or neglect per Maine state law, the report is not assigned (“inappropriate”) for intervention. When reports contain allegations of abuse or neglect and are “appropriate” for intervention, the report may be assigned for an OCFS child protective assessment, or assigned to an Alternative Response Program (ARP).

Some examples of reports that would be deemed inappropriate include:

- **Parent/child conflict:** Children and parents in conflict over family, school, friends, or behaviors, with no allegations of abuse or neglect. Includes adolescents who are runaways or who are exhibiting acting out behaviors that parents have been unable to control.
- **Non-specific allegations** or allegations of marginal physical or emotional care, which may be poor parenting practice, but is not considered abuse or neglect under Maine Law.

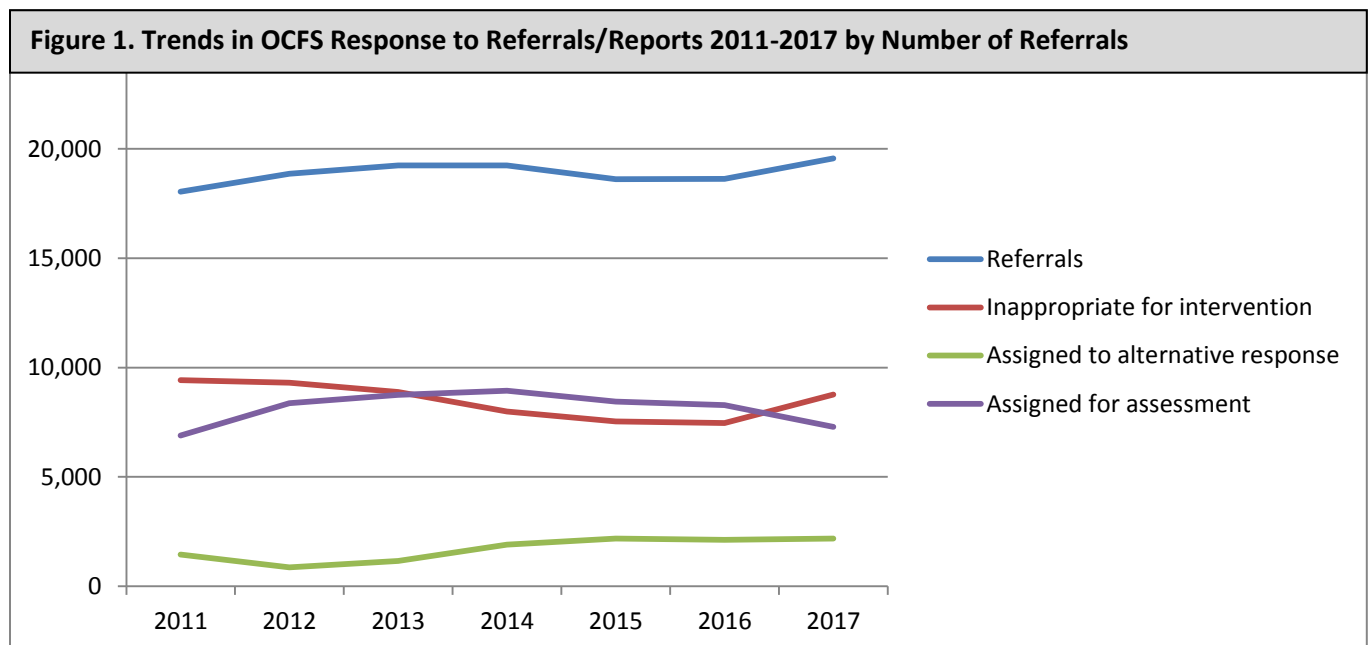
- **Conflicts over custody** and/or visitation of children which may include allegations of marginal/poor care.
- **Families in crisis** due to financial, physical, mental health, or interpersonal problems, but there are no allegations of abuse or neglect.

The Department of Health and Human Services has contracts with private agencies to provide an alternative response to reports of child abuse and neglect when the allegations are considered to be of low to moderate severity at the time of the initial Intake report. Referrals are also made to ARP at the conclusion of a child protective assessment or case with a family, when ongoing services and support are deemed necessary.

Child protective assessments conducted by OCFS result in a finding of abuse or neglect (substantiated or indicated), or no findings of abuse/neglect (unsubstantiated). Substantiated findings are high severity, whereas indicated findings are of low/moderate severity.

Trends in OCFS Response to Referrals/Reports

Table 1. Number of Referrals/Reports by Type of Response 2011-2017							
	2011	2012	2013	2014	2015	2016	2017
Total Referrals Received by Intake	18,037	18,867	19,236	19,239	18,615	18,630	19,567
Determined inappropriate for intervention	9,425	9,315	8,889	7,997	7,535	7,463	8,768
Assigned to alternative response	1,458	865	1,159	1,908	2,177	2,127	2,185
Assigned for child protective assessment	6,890	8,369	8,757	8,945	8,446	8,279	7,288



Source: Compiled by OPEGA based on figures taken from OCFS Child Protective Services Annual Reports for 2013, 2014 and 2017.

OCFS Resources

Budgeted and Actual Expenditures

OPEGA requested that DHHS provide total annual budgeted and actual expenditures, inclusive of all funding sources, for the period FY08 through FY18 (as of 5-31-18) broken down by Personal Services and All Other for OCFS in total and with a breakdown by Central Intake and District Office. DHHS provided the following information.

OCFS Budget Details			
Year	Intake Budget	District Offices Budget	Total Cost
2008	\$ 1,639,473.56	\$ 112,217,737.55	\$ 113,834,738.96
2009	\$ 1,728,183.63	\$ 108,348,318.78	\$ 110,107,565.22
2010	\$ 1,660,385.60	\$ 105,116,961.27	\$ 106,907,541.68
2011	\$ 1,491,820.27	\$ 105,799,230.35	\$ 107,429,429.12
2012	\$ 1,801,863.96	\$ 104,484,173.58	\$ 106,931,398.74
2013	\$ 1,763,187.96	\$ 100,935,046.09	\$ 102,800,594.32
2014	\$ 1,934,610.67	\$ 108,244,316.91	\$ 111,285,339.20
2015	\$ 1,964,638.83	\$ 110,179,383.67	\$ 112,977,829.43
2016	\$ 2,367,474.34	\$ 118,767,674.33	\$ 122,784,227.88
2017	\$ 2,637,518.64	\$ 115,806,994.57	\$ 121,266,233.80
2018 (Thru 5/31)	\$ 1,411,491.51	\$ 114,835,069.61	\$ 119,951,080.74
Prevention Contract Budget Details*			
Year	Community Partnerships for Protecting Children	Maine Children's Trust	Total Cost
2008	**	**	**
2009	**	**	**
2010	**	\$ 130,949.00	\$ 130,949.00
2011	**	\$ 140,000.00	\$ 140,000.00
2012	\$ 575,399.00	\$ 70,000.00	\$ 645,399.00
2013	\$ 575,399.00	\$ 206,430.00	\$ 781,829.00
2014	\$ 823,969.00	\$ 236,770.00	\$ 1,060,739.00
2015	\$ 625,399.00	\$ 185,121.43	\$ 810,520.43
2016	\$ 625,399.00	\$ 1,123,448.57	\$ 1,748,847.57
2017	\$ 1,493,686.27	\$ 1,358,500.00	\$ 2,852,186.27
2018 (Thru 5/31)	\$ 1,945,469.16	\$ 1,905,500.00	\$ 3,850,969.16
*Prevention was based on the budgeted amount for that specific SFY.			
**This information is still being researched and can be provided at a later date.			

Staffing

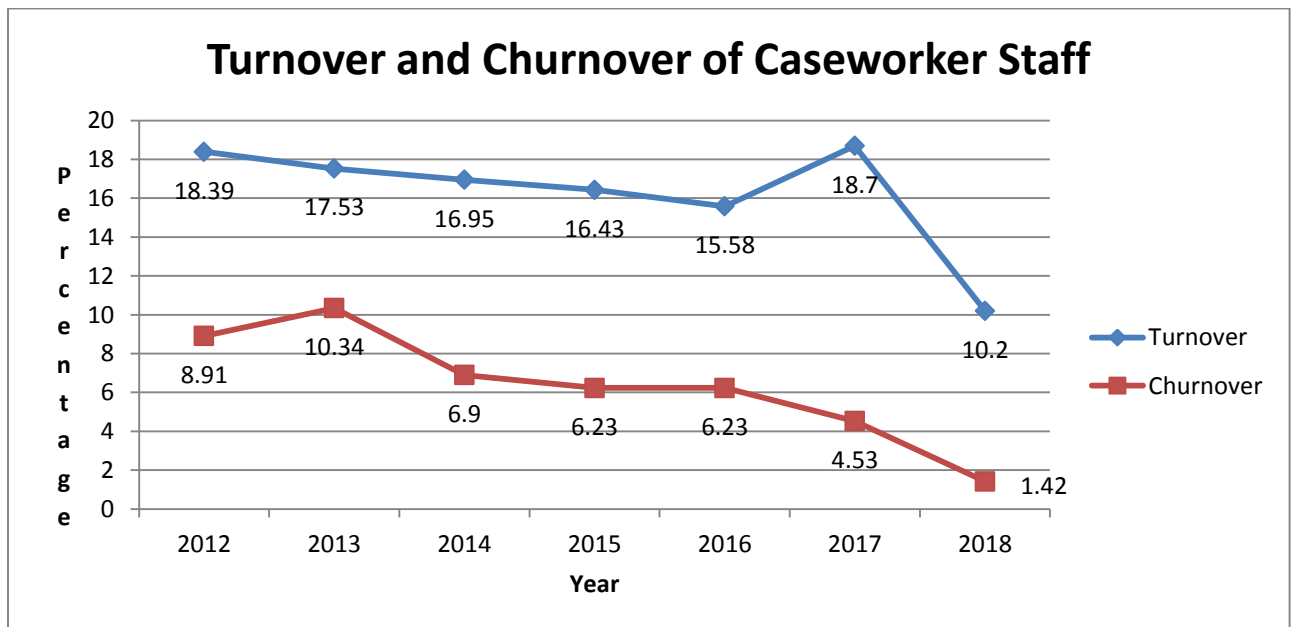
On May 30, 2018, DHHS provided some information on OCFS staffing levels and turnover/churnover rates as follows:

Number of filled positions, as of the end of each state fiscal year:

Year	Number of Filled Caseworker Positions (all units)	Number of Filled Supervisor Positions (all units)
2011	308	58
2012	321	58
2013	316	64
2014	320	65
2015	321	65
2016	332	65
2017	323	66
2018*	326	66

*Current as of 5-30-18.

The statistics in the Turnover and Churnover of Caseworker Staff graph represent the turnover and churnover rates for all caseworkers over each calendar year. The 2018 percentages are as of 5-29-18 which is not quite half a year. The rates for 2018 will continue to increase as the year progresses.



DHHS explained that it has a continuous job posting for human services caseworker positions. This allows the District office to immediately obtain a list of qualified candidates as soon as a position becomes vacant. Currently OCFS has 21.5 vacant human services caseworker positions as of 6-22-18. The average vacancy time of these positions is 39 days from when they become vacant. No human services caseworker positions are intentionally held vacant. OCFS manages the vacancies within the human services caseworker positions by filling the position with the longest vacancy time first. Thus, the average number of vacant days provides

meaningful insight when considered in conjunction with the vacancy, turnover, and churnover rates. It is necessary to view this data collectively to obtain an accurate understanding.

According to DHHS, the Director of the Office of Child and Family Services receives monthly reports on vacancies and turnover/churnover rates. The Department explained that vacancies are primarily a function of the turnover/churnover rate as while some positions are in process of being filled, others become vacant. It is easier to fill vacancies in the offices that are in the more populated areas like Portland and Bangor while there is more difficulty in areas like Rockland where DHHS is competing for workforce. As a result, OCFS may shift open caseworker positions to the offices that are easier to recruit for and also adjust the geographic territory covered by those offices to better meet demand.

Caseloads/Workload

OCFS Caseloads

On May 30, 2018, DHHS provided information on OCFS caseloads. According to DHHS, on average across types of workers, Assessment workers have carried six cases per month and Permanency workers have carried 12 cases per month. DHHS noted that this is a mathematical average and therefore includes a variance of highs and lows across staff. OPEGA requested that DHHS provide additional detail on the period of time the caseload averages are for and how they were calculated.

DHHS later explained that the caseload information provided by DHHS on May 30, 2018, represents the management goals for caseload averages for staff in these positions over the past ten years. Previously, OCFS had reports monitoring caseloads by the worker but stopped producing this report in March 2017 and allowed the District management staff to manage workload and case assignments in the local offices as the District offices have flexibility to move caseworkers between units (Assessment, Permanency and Adoption) as needed to meet changing workloads. As of last week, OCFS had reinstated this report in order to monitor caseloads within and between District offices.

Since March 2018, there has been an increase in the number of reports of alleged child abuse and/or neglect and resulting assessments. This increase has impacted the number of assessment cases assigned to child protective staff. In order to manage this increased workload, OCFS is assigning assessment cases to all types of caseworkers. Attachment F includes information DHHS provided on current number of filled and vacant assessment positions and average caseloads by District as of 6-27-18.

OCFS explained that some of the increase in Intake reports and OCFS child protective assessment activity since December 2017 is in part due to several of the recent practice changes described in OPEGA's Information Brief. These include: conducting a child protective assessment upon receiving a third report deemed inappropriate within a 6-month timeframe; creating a New Report through Intake for reports received while cases are open; and doing assessments on cases previously assigned to ARP where ARP is closing the case as unsuccessful. DHHS provided an Overview of the recent Child Protective Workload including the impact and results of additional assessments occurring due to the practice changes. See Attachment E.

OCFS says that it has been meeting the increased assessment activity in District Offices by assigning permanency and adoption unit staff to assist with assessments. The increased activity also means that, at present, OCFS is continuing to outsource assessments of low/moderate severity allegations to the ARP agencies though there are plans to stop using ARP to perform assessments in the future. Taking on the assessment workload that has been getting referred to ARP will require additional caseworkers and supervisors in the District Offices.

OPEGA Research on Caseload Standards

OPEGA briefly researched what nationally recognized caseload standards are available for comparison to Maine’s OCFS workload. OPEGA located caseload standards from the Child Welfare League of America (CWLA). We also located a table compiled by Montana comparing standards from a number of sources, including CWLA, at <https://dphhs.mt.gov/Portals/85/Documents/ProtectMontanaKids/DOC091.pdf>. The table is in Attachment A.

CWLA is coalition of private and public agencies founded in 1920 that works to develop policies, programs, and practices related to child welfare. The Maine Department of Health and Human Services, Office of Child and Family Services, is a coalition member. In addition to the caseload standards, CWLA developed a National Blueprint for Excellence in Child Welfare outlining a guiding philosophy and standards for child welfare practice. CWLA also has for sale best practice standards in a number of related areas including, but not limited to, adoption services, family foster care services, kinship care services, services for abused or neglected children and their families, and services to strengthen and preserve families with children.

The CWLA caseload standards appear to have been last revised in 1999 and are shown in Table 2. OPEGA notes that the CWLA standards provide some context around factors that may impact the intensity of workload beyond the number of reports, families, or children. These factors include the intensity of services provided and the varying needs of children and family. OPEGA observes that, in Maine, low/moderate risk assessments are being referred to the contracted ARP agencies which means OCFS caseworkers are dealing with higher severity allegations. A caseload of 12 assessments with a mix of low, moderate, and high severity allegations seems like a different workload than a caseload primarily consisting of high severity allegation assessments. OPEGA also observes that the geographic dispersion of cases, and the resulting travel time required, is also a potential influencing factor of a manageable workload in Maine.

Table 2. CWLA Caseload Standards	
Worker Type	Caseload Standard
Workers making initial CPS assessments	No more than 12 active reports per month
Workers providing ongoing CPS support	No more than 17 active families, assuming the rate of new families assigned is no more than one for every six open families
Worker both making initial CPS assessments and providing ongoing CPS support	No more than 10 active ongoing families and no more than 4 active initial assessments
Worker providing Intensive Family-Centered Services	No more than 12 families
Worker counseling with birth families, preparing and assessing adoptive applicants for infant placements and supporting these families following placement	20-25 families
Worker preparing children for adoption who are older or who have special needs	10-12 children
Worker assessing and preparing adoptive applicants for the placement of children who are older or have special needs and providing support to these families following placement	12-15 families
Worker assessing and preparing adoptive applicants for inter-county adoption	30-35 families
Family foster care social worker	12-15 children, depending on level of services required to meet assessed needs of each child
Source: Child Welfare League of America, “CWLA Direct Service Workers’ Recommendations for Child Welfare Financing and System Reform” (2012). https://www.cwla.org/wp-content/uploads/2014/05/DirectServiceWEB.pdf	

Calls to Intake

According to OCFS, statistics on calls to Intake are generated and are used for managing the Intake unit. OCFS acknowledges Intake is currently challenged in meeting the increased call volumes over recent months. OCFS has begun exploring other avenues for certain mandated reporters, i.e. schools, law enforcement, to make reports other than by calling to both decrease call volume and be more responsive to these reporters.

Alternative Response Program Contracts

OPEGA reviewed the contracts for two ARP providers for payment terms and requirements relevant to staffing and notifications to DHHS. Both were two year contracts established in July 2016 and the basic terms were the same.

Scope of Services

The ARP provides community-based intervention services to reach the target population of eligible families. ARP supports OCFS' practice model, which focuses on the family's strengths and needs. ARP provider shall partner with Eligible families to provide case management services and to plan for the safety, permanency and well-being of their child(ren).

Payment Terms

DHHS pays the Provider monthly upon receipt of approved invoices. Payments are based on actual services delivered at the DHHS approved rate per "Unit" specific to each District covered by the contract. A maximum number of "Units" per year for each district is also set. The rate includes both targeted case management service and non-targeted case management client expenses up to total of the contract.

The two contracts OPEGA reviewed covered six DHHS Districts. The approved rate per unit ranged from \$403.78 to \$435 and the maximum annual number of units ranged from 732 to 2,458. A unit represents on family served within one month.

ARP Staffing

Under the requirements of the original July 2016 contract, the ARP provider was required to maintain an ARP supervisor that has:

- A degree in the human service's area (a master's degree in social work preferred); and
- One of the following professional licenses:
 - Licensed Clinical Professional Counselor (LCPC)
 - Licensed Clinical Professional Counselor-Conditional (LCPC-C)
 - Licensed Clinical Social Worker (LCSW)
 - Certified Social Worker-Independent Practice (CSW-IP)
 - Licensed Master Social Worker-Conditional Clinical (LMSW-CC)
 - Licensed Marriage and Family Therapist (LMFT)
 - Licensed Marriage and Family Therapist-Conditional (LMFT-C)
 - Advanced Practice Registered Nurse-PMH-Clinical Nurse Specialist (ARNP-PMH-CNS)

- Advanced Practice Registered Nurse-PMH-Nurse Practitioner (ARNP-PMH-NP)
- [Psychiatrist] Medical Doctor, or
- Psychologist;
- Field experience working with multi-problem families; and
- Demonstrated experience in, or potential for, providing supervision to workers who provide in-home services as well as knowledge of child welfare policies and programs, family therapy theories, treatment philosophies and strategies of home-based services and knowledge and availability of local resources.

Additionally, the ARP provider was required to maintain ARP Case Managers that have:

- A bachelor degree in the human services area (BSW preferred), and
- One of the following licenses:
 - Licensed Social Worker (LSW), or
 - Licensed Social Worker-conditional (LSW-C).

A November 2016 amendment to the contracts changed the staffing requirements. The reason for this change is noted in the amendment as: “OCFS has determined the supervisor and case manager minimum requirements found in the current agreement are not appropriate for the level of service found in the agreement. This amendment will change the requirements to better fit the service requirements of the service.” The current requirements are:

Employ and/or maintain staff, in an amount sufficient to meet the requirements of this Agreement and that meet the following standards:

- ARP Supervisors are preferred but not required to be a Licensed Social Worker (LSW) or Licensed Social Worker-Conditional (LSW-C). Required to have 1 year of supervisory experience as well as meet the qualifications of ARP Case Managers.

ARP case managers shall:

- Have previous documented experience working with children and families;
- Have no conflict of interest (such as personal knowledge or involvement with the client, other information which could place a bias, or present a safety concern), as determined by the Provider. If there is a questionable conflict of interest, the Provider shall consult with the Department regarding the circumstances and collaborate to develop an alternative plan if necessary. The Provider shall document any potential or realized conflicts of interest regarding ARP staff, to include how the conflict was recognized and resolved;
- Preferred but not required to be a Licensed Social Worker (LSW) or Licensed Social Worker-Conditional (LSW-C). Case Managers are required to have a Bachelor’s degree.

OCFS Caseworker and Supervisor Training

DHHS explained that training for caseworkers and supervisors in the OCFS units related to child protection activities includes both mandatory and recommended programs.

All newly hired, child-welfare caseworkers must undergo training designed to give them a foundation of knowledge in order to conduct child protective activities. The newly hired, child-welfare caseworkers must

successfully demonstrate (through direct observation of their work) expected casework practice before being assigned independent cases. The new-worker training consists of a four-week Foundations Training that covers the following topics:

Week 1	Week 2	Week 3	Week 4
Introduction to the OCFS, Laws, Policy, Practice and Dynamics of Child Abuse and Neglect	Introduction to Intake Process; Introduction to Child Protective Assessment Process	Introduction to Family Team Meetings and Facilitated Family Team Meetings	Introduction to the Court Process and What's Involved During a Permanency Case When Children are in Foster Care
Introduction to Domestic Violence; Introduction to Substance Abuse	Introduction to MACWIS Assessment Screens; Introduction to Fact Finding Interviewing Process and Making Decisions on Child Abuse and Neglect Findings	Service Cases; Removing Youth from their Homes and What They Need in Care	Introduction to Working with Resource parents, Resource Panel; Reasonable and Prudent Parenting Standards; Child Case Plan
Medical Indicators of Child Abuse/Neglect; Parents as partners; and debrief of Week	Introduction to Fact Finding Interviewing Process and Making Decisions on Child Abuse and Neglect Findings-continued from	MECASA Human Trafficking Presentation; Youth in Care Panel Discussion	Introduction to Being a Guardian To A Youth In Care; School Stability; Youth In Care Bill of Rights; Reasonable and Prudent Parenting

During the first year of hire, new caseworkers are to complete the New Worker Checklist. This list includes specific trainings that are to be completed within the first year. These trainings are as follows:

- Working within OCFS – Orientation
- Staff Safety
- Legal Training
- MACWIS/Technology Training
- Indian Child Welfare Act (ICWA); Working with Native American Tribal Child Welfare
- Social Work Ethics
- Psychosocial Assessment
- Child Welfare Trauma Training Toolkit
- Children's Behavioral Health in Maine training

Ongoing trainings that are offered to child welfare protective workers:

- Advanced Medical Indicators
- Child Plan Youth Voice
- Child Passenger Safety
- Drug Identification, Impairment Recognition and Caseworker Safety
- Facilitated Family Team Meeting Training
- Failure to Thrive: Diagnosis, Treatment & Family Support
- FFTM Facilitator Training
- OCFS Documentation Training
- Online Period of Purple Crying
- Permanency Two- Understanding Permanency Options for Children

- Rights of Recipients of Mental Health Services Who Are Children in Need of Service
- Special Topics for the 0-4 Population: Abusive Head Trauma and Safe Sleep
- Transition to Independence process (TIP)
- Human Trafficking & Commercial Sexual Exploitation of Children
- Advanced Forensic Interviewing
- Infant Mental Health
- Brain Development, Trauma and Parenting
- Social Work Ethics
- Beyond Mandated Reporter Training
- Ethical Decision Making
- Others that are deemed necessary to increase caseworker skill level

The Supervisory Academy was created in 2013 to ensure supervisory staff were participating in trainings to increase their skills around managing, supporting, coaching, and mentoring caseworker staff. The academy consists of the following trainings:

- Managing in State Government
- Putting the Pieces Together – a three-part, three-day training encompassing the three themes of supervision, Administrative, Educational and Supportive Supervision
- Leadership Academy for Supervisors
- Other trainings deemed necessary to increase supervisor skills

Training for Mandated Reporters

DHHS has developed a training curriculum for mandated reporters that it delivers through a webinar available on the internet and through in-person trainings conducted by DHHS staff upon request. There are also 10 Child Abuse and Neglect Councils in Maine that are local resources for parenting information, education and support. According to DHHS, the CANs also provide Department-approved mandated reporter training. OCFS explained that mandated reporters must take the initiative to get training every four years and only Department-approved training counts toward meeting the statutory training mandate. OCFS stated that it keeps records of individuals trained through one of these avenues, but does not monitor whether all mandated reporters have been trained.

Relevant Recent Legislation Impacting Child Protection

OPEGA conducted limited research to identify legislation recently enacted or currently pending relevant to child protection topics discussed in recent GOC meetings. We identified the following legislation enacted in the 126th, 127th or 128th Legislatures or currently still pending in the 128th Legislature.

Legislation Relevant to Mandated Reporting

The 126th Legislature enacted LD 1523 An Act To Strengthen the Laws Governing Mandatory Reporting of Child Abuse or Neglect as P.L. 2013, ch. 268. The law requires mandated reporters to make a report in cases where children who are under 6 months of age or otherwise nonambulatory have specified types of injuries. The original bill also included provisions making failure to report by a mandated reporter a Class E crime and requiring mandated reporters to complete training on mandatory reporting as a condition of obtaining a professional license or certification. Both provisions were removed via the Judiciary Committee amendment that became the enacted bill. There was not much testimony against making failure to report a Class E crime

except from the medical community who said that The Board of Licensure in Medicine has adequate authority in its disciplinary statute to take action against a licensee if the circumstances warrant. Testimony also pointed out that statute already has a \$500 civil penalty provision for violations of the chapter. The testimony of the Commissioner of the Department of Professional and Financial Regulation expressed concerns regarding implementation and compliance issues associated with requiring training as a condition of licensure or certification.

The 127th Legislature enacted LD 199 An Act To Improve the Reporting of Child Abuse as P.L. 2015, ch. 117. This law clarifies the responsibility of individuals who are mandated reporters in their capacity as professionals employed by institutions, facilities or agencies. It requires that a mandated reporter, described as the "notifying person," who makes a report of child abuse/neglect to its employer must acknowledge in writing that he/she has received confirmation that the institution, facility or agency made a report to DHHS. If the mandated reporter does not receive that confirmation within 24 hours of notifying the institution, facility or agency, the mandated reporter is required to report directly to the department. The law also prohibits an employer from taking any action to prevent or discourage an employee from making a report. Lastly the law adds similar requirements for reports that must be made to the appropriate district attorney's office.

The 127th Legislature also enacted LD 622 An Act To Require Training of Mandated Reporters under the Child Abuse Laws as P.L. 2015, ch. 407. This law requires all mandated reporters of suspected child abuse or neglect to complete mandated reporter training approved by the department at least once every 4 years. The original bill also included a provision requiring mandated reporters to complete training on mandatory reporting as a condition of obtaining a professional license or certification. The Commissioner of the Department of Professional and Financial Regulation again testified with concerns regarding implementation and compliance issues. The provision was not included in the enacted version of the bill.

Legislation Relevant to Child Placements and Best Interest of Child

The 128th Legislature enacted LD 1187 An Act To Amend the Child Protective Services Statutes as P.L. 2017, ch. 411. The language in the enacted bill was based in part upon recommendations made in a December 29, 2017 report from Deirdre Smith, Professor of Law at the University of Maine School of Law and Director of the Cumberland Legal Aid Clinic. The report resulted from a broad review Professor Smith and Assistant Attorney General Nora Sosnoff conducted of the provisions of the Maine Child and Family Service Act regarding kinship and sibling placement. The Attorney General's Office offered to conduct the review amid concerns that were raised to the Judiciary Committee on the original language in LD 1187. Professor Smith's report and the AG's transmittal letter to the Judiciary Committee is in Attachment C.

The enacted law specifies that the standard of the best interest of the child set forth in Title 19-A § 1653 sub-§ 3 (Family Law) applies to child protection proceedings as well by establishing a definition of "best interest of the child" in Title 22 § 4002 that references the Title 19-A provision. This law also emphasizes kinship placement and placement with siblings, amends the definitions of "relative" and "grandparents", and includes changes intended to effectuate the kinship preference. The Revisor's Office is still in the process of updating the web version of the Child Protection statutes to reflect the changes in this Public Law.

Also in the 128th, the Health and Human Services Committee (HHS) considered LD 270 that dealt with the Administration of Kinship Care and Relative Placement Issues. At present, LD 270 An Act To Support Kinship Families by Creating a Kinship Care Navigator Program as amended by HHS is on the Special Appropriations Table with a funding requirement of \$80,000 annually. The bill establishes a kinship care navigator program to be contracted by DHHS to provide educational information, referrals and support to persons providing kinship care to children. It provides that funding will be drawn from federal funds, if available, and through the General Fund.

Legislation Relevant to Maine’s Child Welfare Information System (MACWIS)

LD 1909 Resolve, To Fund a New Comprehensive Child Welfare Information System is also still under consideration in the 128th Legislature’s Special Session. This resolve directs the Department of Health and Human Services to conduct a needs analysis for its comprehensive child welfare information system, review possible solutions to meet those needs and purchase or develop a new system. It also provides funding for the development of a new comprehensive child welfare information system. The proposed appropriation for this initiative is \$8 million. As of June 25, 2018, the Senate had voted to Indefinitely Postpone the bill and sent it to the House for Concurrence where it remained pending as Unfinished Business.

DHHS Current Strategic Initiatives for Child Welfare

OPEGA reviewed DHHS’ Summary of Strategic Initiatives which were developed following an internal review of the Office of Child and Family Services in early 2018. These Initiatives were described in the Child Welfare Overview report the Governor provided in conjunction with his testimony at the May 31, 2018 Public Comment period on OPEGA’s Information Brief. The section of that report describing the initiatives is in Attachment D.

OPEGA attempted to determine the extent to which DHHS’ initiatives may address the areas that OPEGA identified as potential areas for concern or improvement in the May 2018 Child Protection System Information Brief. We note that the summary of the initiatives provided by DHHS contains limited information which makes it difficult to fully assess the degree to which the potential areas for concern may be addressed by the initiatives.

Table 3 specifies the OPEGA-identified potential areas for concern or improvement that appear to be addressed to some degree by DHHS Initiatives. OPEGA also notes that DHHS has ongoing initiatives that extend to areas beyond those identified by OPEGA in the Information Brief. These include initiatives related to family intervention practices, permanency timeframes, increased focus on the “Child’s Best Interest,” changing the mandated reporting statute, creating a team to review OCFS Child Welfare Practices and Procedures, and reviewing practice for cases involving self-injury and medical neglect.

Table 3. DHHS Initiatives That May Address Potential Areas for Concern or Improvement Identified by OPEGA	
OPEGA Potential Area for Concern or Improvement	DHHS Initiative
Consistency and appropriateness of decisions by ARP caseworkers and supervisors	Initiative 1: Improve Service of Contracted Alternative Service Providers (ARP)
Compliance with contractual obligations by ARP caseworkers and supervisors	
Consistency and appropriateness of decisions by caseworkers and supervisors	Initiative 2: Ensure Consistent, High-Quality Casework Practice for Child Welfare Services (Quality Improvement Objectives)
Consistency and appropriateness of decisions by caseworkers and supervisors	Initiative 2: Ensure Consistent, High-Quality Casework Practice for Child Welfare Services (Personnel, Management and Training Objectives)
Timeliness of OCFS and ARP assessments	Initiative 2: Ensure Consistent, High-Quality Casework Practice for Child Welfare Services (Statutory, Regulatory, and Policy Objectives)
Timeliness of Intake answering phone calls	Initiative 3: Strengthen the Intake Process Related to Reports of Abuse
Extent and manner of communication and information exchange among the various key entities that are part of the child protection system	Initiative 4: Improve Child Safety Decision-Making Through Improved Access to and Management of Information Available to Caseworkers
Appropriateness of caseloads for OCFS and ARP	Initiative 5: Increase Efficiency and Effectiveness of Casework Practice

The following OPEGA-identified areas do not appear to be addressed by the reported DHHS Initiatives and DHHS provided some additional information related to these:

- Guidance and training for mandated reporters, including expectations for “reasonable cause to suspect.”
 - OCFS already provides examples of this in the mandated reporter trainings. OCFS will also be updating the guidance and training materials.
- Junctures at which a comprehensive reassessment of risk could/should be done.
 - This is part of the Structured Decision Making tools and will be added in both OCFS policy and practice with the implementation of SDM Assessment and Permanency tools.
- Compliance with policy and procedures by caseworkers and supervisors.
 - OCFS has currently implemented the Quality Improvement Team and the Supervisory Toolkit. Both of these tools focus on caseworker and supervisor practice which includes adherence to policy and procedures.
- Factors that impact OCFS or ARP decision-making on appropriate action.
 - OCFS has implemented multiple strategies to address increasing high-quality practice of child protective work which will address this potential area for concern.
- Extent to which OCFS and ARP monitor whether families are participating in voluntary services.
 - OCFS has implemented a process for all ARP cases to be rereferred to the OCFS child protective intake hotline if the case is not successfully served by ARP.

- Extent to which mandated reporters, OCFS and ARP seeks to verify, and can verify, information reported by a child's parents.
 - OCFS has currently implemented the Quality Improvement Team and the Supervisory Toolkit. Both of these tools focus on caseworker and supervisor practice, which includes adherence to policy and procedures while simultaneously promoting high quality child welfare practice. Additionally, OCFS has a training planned for caseworkers and supervisors to receive additional training in investigative techniques over the next several months.
- Effectiveness of the child protection system in identifying and responding to child abuse/neglect risks that are not considered to be imminent physical safety risk.
 - OCFS has currently implemented the Quality Improvement Team and the Supervisory Toolkit. Both of these tools focus on caseworker and supervisor practice which includes adherence to policy and procedures while simultaneously promoting high quality child welfare practice. Additionally, OCFS has a training planned for caseworkers and supervisors to receive additional training in investigative techniques over the next several months.

Child Welfare Caseload Standards

Service Categories:	Child Welfare League of America (CWLA) ¹	Council on Accreditation (COA) ²	Colorado (2014) ³	Minnesota (2009) ⁴	Washington (2007) ⁵
	Recommended Caseload Standards	Standards and guidelines for accreditation	Caseload to Achieve Objectives and Meet Requirements ⁶	Case Practice Standards ⁷	Constructed standards ⁸
Intake/ Screening			32.82	70.47	76.77
CPS Investigation/ Assessment	12 active cases per month	Generally, caseloads do not exceed 15 investigations or 15-30 open cases.	13.05	6.14 (Investigation) 8.31 (Family Assessment)	11.62
Case Management— Voluntary/ In-Home Services	17 active families and no more than 1 new case assigned for every six open cases (On-going cases)	Generally, caseloads do not exceed: (1) 12-18 families in programs providing family preservation and stabilization services and (2) 2-6 families in programs providing intensive family preservation and stabilization services.	13.37	31.90	14.34
Case Management —Out-of-Home Placement	12-15 children (Foster Family Care)	Nationally recognized caseload guidelines recommend no more than 15 children in foster care or kinship care, and no more than 8 children in treatment foster care.	7.57	10.91 (Non-Relative Family Foster Care)	11.78
Adoptions		Generally, caseloads do not exceed 12-25 families.	8.60	13.93 (Non-relative Pre-adoptive Home)	19.19

¹ For more information on CWLA standards, see: <http://66.227.70.18/newsevents/news030304cwlacaseload.htm>

² For more information on COA standards, see: <https://www.childwelfare.gov/topics/management/workforce/compendium/aboutcomp/coa/#two>

³ ICF International Incorporated, LLC (2014). *Colorado Department of Human Services: Colorado Child Welfare County Workload Study*. Fairfax, VA: ICF International Incorporated. Available at: [http://www.leg.state.co.us/OSA/coauditor1.nsf/All/E5214710B77C878487257D320050F29A/\\$FILE/1354S%20-%20Colorado%20Childrens%27%20Welfare%20Workload%20Study%20Report%20August%202014.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/E5214710B77C878487257D320050F29A/$FILE/1354S%20-%20Colorado%20Childrens%27%20Welfare%20Workload%20Study%20Report%20August%202014.pdf)

⁴ Hornby Zeller Associates, Inc. (2009). *CHILD WELFARE WORKLOAD STUDY and ANALYSIS: Final Report*. Troy, NY: Hornby Zeller Associates, Inc. Available at: http://www.dhs.state.mn.us/main/groups/county_access/documents/pub/dhs16_151042.pdf

⁵ Walter R. McDonald & Associates, Inc. (2007). *Washington State Children's Administration Workload Study: SUMMARY REPORT*. Sacramento, CA: Walter R. McDonald & Associates, Inc. Available at: <https://www.dshs.wa.gov/sites/default/files/CA/pub/documents/WLS%20Summary%20Report%202011-2007.pdf>

⁶ Based upon 108.3 hours available for casework/ month, as determined in CO.

⁷ Based upon 104.3 hours available for casework/ month, as determined in MN.

⁸ Based upon 119 hours available for casework/ month, as determined in WA.

Definition of “Best interest of Child” in Maine Statute

Title 19-A § 1653.3:

3. Best interest of child. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

- A. The age of the child;
- B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare;
- C. The preference of the child, if old enough to express a meaningful preference;
- D. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity;
- E. The stability of any proposed living arrangements for the child;
- F. The motivation of the parties involved and their capacities to give the child love, affection and guidance;
- G. The child's adjustment to the child's present home, school and community;
- H. The capacity of each parent to allow and encourage frequent and continuing contact between the child and the other parent, including physical access;
- I. The capacity of each parent to cooperate or to learn to cooperate in child care;
- J. Methods for assisting parental cooperation and resolving disputes and each parent's willingness to use those methods;
- K. The effect on the child if one parent has sole authority over the child's upbringing;
- L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects:
 - (1) The child emotionally;
 - (2) The safety of the child; and
 - (3) The other factors listed in this subsection, which must be considered in light of the presence of past or current domestic abuse;
- M. The existence of any history of child abuse by a parent;
- N. All other factors having a reasonable bearing on the physical and psychological well-being of the child;
- O. A parent's prior willful misuse of the protection from abuse process in chapter 101 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may only be considered if established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a

child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process;

P. If the child is under one year of age, whether the child is being breast-fed;

Q. The existence of a parent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203;

R. If there is a person residing with a parent, whether that person:

(1) Has been convicted of a crime under Title 17-A, chapter 11 or 12 or a comparable crime in another jurisdiction;

(2) Has been adjudicated of a juvenile offense that, if the person had been an adult at the time of the offense, would have been a violation of Title 17-A, chapter 11 or 12; or

(3) Has been adjudicated in a proceeding, in which the person was a party, under Title 22, chapter 1071 as having committed a sexual offense; and

S. Whether allocation of some or all parental rights and responsibilities would best support the child's safety and well-being.

JANET T. MILLS
ATTORNEY GENERAL



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January 3, 2018

The Honorable Lisa Keim, Senate Co-Chair
The Honorable Matthew Moonen, House Co-Chair
Joint Standing Committee on Judiciary
Maine State House, Room 438
Augusta, ME 04333

Re: Kinship and Sibling Placement in Maine Child Protection Statutes

Dear Senator Keim and Representative Moonen:

I am pleased to submit this response to your May 23, 2017 letter on behalf of the Joint Committee on Judiciary. As requested, we have conducted a review and have prepared a report with Professor Deirdre M. Smith to the Committee, setting forth recommendations regarding kinship and sibling placement. The context for this request was testimony presented regarding two bills introduced in the 128th Legislature: LD 1187, "An Act To Amend the Child Protective Services Statutes," and LD 270, "An Act To Consolidate Administration of Kinship Care and Relative Placement Issues within the Department of Health and Human Services." The Committee carried over both bills.

The review was conducted by Assistant Attorney General Nora Sosnoff, Chief of the Attorney General's Child Protection Division, and Professor Deirdre M. Smith of the University of Maine School of Law. They interviewed Maine Department of Health and Human Services Office of Child and Family Services (OCFS) employees, district court judges, attorneys involved in child protection matters, members of the Legislature, a representative of Adoptive and Foster Families of Maine, and the Child Welfare Ombudsperson. They also researched applicable state and federal law and national child welfare law trends.

Professor Smith's report, attached, sets forth the findings of the review and recommendations for the Legislature's consideration. I offer a few general observations:

Thousands of Mainers are giving an enormous amount of their time, love and resources to ensuring the safety and security of children in their homes. The stakeholders consulted for this review noted that relatives have been taking an increasingly important role in child protection.

It was the consensus of stakeholders that there has been marked change in recent years in the Department's engagement of relatives early in the child welfare process. The stakeholders agreed that the opioid epidemic is imposing additional burdens on the child welfare system which already suffers from a lack of resources.

The total number of children who have spent some period of time in state protective custody during 2017 is over 2,700; the number of children currently in State custody is over 1,600; OCFS has received 952 reports of substance exposed newborns; and the OCFS Intake lines fielded well over 40,000 calls in 2017 for suspected child abuse or neglect.

This result identified a few provisions in Maine's Child and Family Services and Child Protection Act ("the Child Protection Act"), 22 M.R.S. §§ 4001-4099-H, that could be clarified to ensure that broader policy goals are met. Professor Smith has developed specific recommendations for legislation to be considered during the 128th Legislature's Second Session, as set forth in the attached report. I briefly summarize those:

- Broaden the definition of "relative;"
- Enact a sibling placement preference;
- Provide a statutory standard, consistent with other Maine laws, for assessing the best interest of children in child protection cases; and
- Establish a statutory framework clarifying the respective responsibilities of the Department and relatives seeking placement.

Thank you for the opportunity to conduct this review and to share our findings. AAG Sosnoff and Professor Smith are happy to meet with the Committee to answer questions and to discuss potential legislation.

Very truly yours,



Janet T. Mills
Attorney General

JTM/mao

December 29, 2017

Hon. Janet Mills, Attorney General of Maine
Office of the Attorney General
6 State House Station
Augusta, ME 04330

RE: Review of Maine Statutes Regarding Relative and Sibling Placement
in Child Protection Matters

Dear Attorney General Mills:

This letter describes the results of the review that Assistant Attorney General Nora Sosnoff, Chief of the Attorney General's Child Protection Division, and I recently conducted of Maine's Child and Family Services and Child Protection Act ("the Child Protection Act"), 22 M.R.S. §§ 4001-4099-H, provisions regarding kinship and sibling placement.

In this report, I will first provide an overview of the federal laws that play an important role in relative and sibling placement in child protection cases. Next, I describe the many provisions that the Maine Legislature has already enacted to address the involvement of relatives and siblings in such cases. A summary of the applicable policies of the Maine Department of Health and Human Services Office of Child and Family Services (OCFS) follows. Based on the review and analysis of these statutes and policies, as well as information gathered through stakeholder interviews, this report then discusses the extent to which the current provisions of the Child Protection Act are effective in facilitating relative and sibling placement. Finally, I outline some potential amendments to the Child Protection Act that may provide clarification and further advance Maine's policy goals regarding sibling and relative placement. These revisions, combined with some non-statutory measures, would ensure that, where possible, children in the child welfare system can maintain beneficial ties with relatives even if they are not living with their parents.

Federal Law Framework

Much of Maine's child welfare law and policy is directed by federal law because the U.S. Department of Health and Human Services (DHHS) provides a substantial amount of funding for the work addressing abuse and neglect of children. Congress has, through a series of enactments, imposed extensive conditions for the use of such funds. Some of those requirements pertain specifically to relative and sibling placement. As a result, federal law influences states' child welfare law to a great degree.

Most relevant for this review is Part IV-E of the Social Security Act, which provides "Federal Payments for Foster Care and Adoption Assistance." The Adoption Assistance and Child Welfare

Act of 1980, Public Law 96–272 (1980), enacted as 42 U.S.C. § 671(a), sets forth the features to be included in a state’s foster care and adoption assistance plan if it is to be eligible for approval for payments by the U.S. DHHS. This law makes clear that, in implementing the various plan components, “the child’s health and safety shall be the paramount concern.” 42 U.S.C. § 671(a)(15)(A).

In 1996, Congress added a “kinship preference” to the list of features for state plans. Specifically, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 (1996), enacted § 671(a)(19), which provides:

[T]he State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards;...

The following year, Congress passed another important child welfare law: The Adoption and Safe Families Act of 1997, Public Law 105-89 (1997) (ASFA). The ASFA enacted several significant requirements regarding permanency planning for children in state custody, and it recognized the critical role that relative caregivers can serve in helping children achieve permanency. Among other measures, it included guardianship in the hierarchy of outcomes in permanency plans in § 675(5)(C), authorized state demonstration projects regarding “kinship care,” created a “kinship care” advisory panel to review report from DHHS regarding “the extent to which children in foster care are placed in the care of a relative,” and required states to seek termination of parental rights for a child in foster care for 15 of the 22 recent months unless, *inter alia*, the child is being cared for by a relative, § 675(5)(E).

Congress added in 2008 the condition that “child welfare agencies [] make reasonable efforts to place siblings together.” 42 U.S.C. § 671(a)(31)). Specifically, the federal law now demands that state plans

(31) provide[] that reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;...

That change was included in the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 (2008). That act also added new plan components for identification and notification of relatives, including siblings, when children enter foster care, 42 U.S.C. § 671(a)(29), and requires child welfare agencies to make reasonable efforts to place siblings together, whether in foster care, kinship guardianship, or adoptive placements. *Id.* § 671(a)(31). Perhaps most

significantly, the 2008 act gave states the option to use Title IV-E funds to finance guardianship assistance programs for grandparents and other relatives who have cared for a child as foster parents, § 671(a)(28)), and authorized "Family Connection" Grants to establish kinship navigator programs that help link relative caregivers to a broad range of services and supports for them and the children they raise, § 627(a)(1).

The most recent major child welfare law enacted by Congress is the 2014 Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, and it includes kinship and sibling provisions as well. It requires state agencies to notify parents of a child's siblings when the child is removed from a parent's care, § 671(29), and it adds a definition of "sibling" at section 675(12).

Another important consideration is that the placement of Native American children must comply with the Indian Child Welfare Act, Public Law 95-608 (1978), which creates a preference, absent "good cause to the contrary," for foster care, pre-adoptive, and adoptive placements with any member of the child's extended family. 25 U.S.C. §§ 1915(a),(b).

More generally, the federal law governing foster care and adoption assistance payments calls on states to adopt licensing criteria for those who receive such payments. The federal statute specifies some of the standards, including criminal and child protection background checks. 42 U.S.C. § 671(a)(20). Being able to satisfy licensing criteria is important for any family whose financial health will depend on foster care and adoption assistance payments.

Maine Laws Addressing Relatives and Siblings in Child Protection Matters

The Maine Legislature has enacted several important provisions during the past twenty-five years addressing the role of a child's relatives and siblings in child protection cases. There is little question but that the policy of Maine's child welfare law recognizes and values the involvement of relatives and siblings.

Statutes Regarding Participation of Grandparents and Other Relatives in Child Protection Cases

The Maine Legislature's first significant enactment with respect to kinship placement in the child protection context was "An Act Regarding the Rights of Grandparents in Child Protection Proceedings" in 1993. It created a new provision, located at 22 M.R.S.A. § 4005-B in the Child Protection Act, that permitted grandparents to petition the court for standing and intervenor status and, if successful, to request placement of the child in their home. P.L. 1993, ch. 627.

In 2001, the 120th Maine Legislature made several changes to the Child Protection Act based on the recommendations of the Committee to Review the Child Protection System, including some that concerned the role of the child's relatives. Specifically, it replaced the 1993 law regarding grandparents with a new provision permitting a grandparent or other relative to seek status in the proceeding as an "interested person." P.L. 2001, ch. 696 § 16 (enacting 22 M.R.S.A. § 4005-D). An interested person may "attend and observe all court proceedings ..." and has a right to be heard in

court. 22 M.R.S. § 4005-D(4). The 2001 law also addressed “intervenor,” who are allowed to present and challenge evidence. 22 M.R.S.A. § 4005-D(5).

As part of the 2001 amendments, the Legislature also created a new section that sets forth how grandparents may pursue “reasonable rights of visitation or access” or ask the court to place a child with them. P.L. 2001, ch. 696 § 16 (enacting 22 M.R.S.A. § 4005-E). The 2001 law also included several other provisions pertaining to kinship placement, including requiring the Department to specify “[t]he names of relatives who may be able to provide care for the child” in the initial child protection petition that starts the case in court. That provision is now at section 4032(2)(J).

The Legislature made several significant revisions in 2007 to the placement provision in section 4005-E(2) to expand eligibility to seek placement beyond grandparents.¹ The current language states that “the court shall make placement with a relative a priority for consideration for placement if that placement is in the best interests of the child and consistent with section 4003.” The definition of “relative” was revised in the same bill to include “the biological or adoptive parent of the child’s biological or adoptive parent, or the biological or adoptive sister, brother, aunt, uncle or cousin of the child,” regardless of whether the person “had taken responsibility” for the child. P.L. 2007, ch. 371, § 1 (amending § 4002(9-B)).

The Maine Supreme Judicial Court sitting as the Law Court (“Law Court”) has explained the significance of section 4005-E(2) as follows:

[I]f a court concludes that a child’s best interest can be achieved by placement with a [relative] and also through some other custodial arrangement, the statute directs that, as between the two alternatives, placement with the [relative] be given priority. The statute does not, however, require placement with a [relative] absent a best interest finding in favor of the [relative].

In re Zoe M., 2004 ME 94, ¶ 12; *see also In re Annie A.*, 2001 ME 105, ¶ 25 (“[T]he Legislature has directed that a favorable ‘best interest’ determination is a prerequisite to giving grandparents priority consideration for placement.”). Further, on appeal, a relative challenging an order denying placement must demonstrate that “the evidence compels a finding that placement with the grandparent is in the child’s best interest.” *Id.* at ¶ 8 (citing *Annie A.* at ¶ 30). Thus, where placement with a relative would create “serious emotional harm” for a child as a result of the change in custody from her foster parents, a court’s denial of placement with the relative was consistent with the statute. *Id.* at ¶¶ 10-11.

The Law Court has held that grandparents do not have a fundamental constitutional right to such placements. *In re Richard G.*, 2001 ME 78. In that case, the grandmother challenged the language now in section 4005-E permitting a court to base a denial of placement on a child’s best interests, rather than a finding of jeopardy. *Id.* at ¶¶ 3, 12. The Court explained: “A grandparent possesses no constitutional right to access the child. Furthermore, her interests do not align with the state’s

¹ The visitation and access provision in § 4005-E(1) remains limited to grandparents.

interest... that the needs and well-being of the child must be paramount. The grandmother lacks a constitutionally protected interest in [the child's] placement." *Id.* (citing *Rideout v. Riendeau*, 2000 ME 198, ¶ 26).

In addition to section 4005-D, which permits certain blood or marital relatives of the child (as well as foster parents) to request status as an "interested person" or to intervene in the case, there are several provisions scattered throughout the Child Protection Act that require notice to certain non-parent relatives of the child of specific events during the proceedings. These events include: initial petition (§ 4033(5)); removal of the child from home (§ 4036-B; notice extends to siblings as well); judicial reviews (§ 4038); and petition to terminate parental rights (§ 4053).

Statutes Regarding Preference for Placement with Relatives

In 1999 the Legislature enacted "An Act to Strengthen the Kinship Laws" adding a new provision to Subchapter 7 of the Child Protection Act, which specifies certain obligations of the Department regarding children in its custody. The new provision is located in section 4062, which addresses payments by the Department to those providing care for children in state custody, and states:

4. Kinship preference. In the residential placement of a child, the department shall consider giving preference to an adult relative over a nonrelated caregiver when determining placement for a child, as long as the related caregiver meets all relevant state child protection standards.

P.L. 1999, c. 382, § 1, enacting 22 M.R.S.A. § 4062(4). This language mirrors the federal law at 42 U.S.C. § 671(19), discussed above. The reference to "relevant" standards makes clear that the preference operates within existing requirements that a relative caregiver meets foster care licensing standards to receive financial assistance. The Law Court has had only limited occasions to consider the implications of this provision. *See, e.g., In re David H.*, 2009 ME 131 ¶ 20, ¶ 43 (holding that failure to raise kinship placement issue during termination of parental rights proceeding constituted waiver of the issue).

In 2005, the 122nd Maine Legislature enacted additional changes to the Child Protection Act to reflect Maine's policy favoring kinship placement. Most significantly, it amended 22 M.R.S.A. § 4003, which sets forth the "Purposes" of Child Protection Act, to add "**Kinship placement.** Place children who are taken from the custody of their parents with an adult relative when possible," 2005 P.L. ch. 374, § 1, as an "intent of the Legislature" for the Act. As noted above, the Legislature enacted § 4002(9-B) in 2007 to define "Relative."

The Law Court has had a few occasions to consider the implications of § 4003(3-A). In *In re N.W.*, 2013 ME 64, a child's great aunt, who had been a placement for the child, appealed the District Court's denial of her motion to intervene. One of her arguments on appeal was that the court was wrong to find that her intervention would have been inconsistent with the purposes language in § 4003 and that her intervention would have served the purpose in (3-A). The Law Court rejected this argument because, as the child's great aunt, she did not meet the definition of "relative" in § 4002(9-B). *Id.* ¶ 15. *See also In re Kenneth S.*, 2017 ME 45 ¶ 5 n.3 (affirming district court's

rejection of mother's request to place child with her former foster mother and noting that the "statutory preference for a child to be placed with family members" did not extend to persons who do not meet the definition of "relative" in § 4002(9-B)).

In *In re I.R.*, 2015 ME 93, the child's mother appealed from the District Court's order terminating her parental rights. Among her arguments on appeal, she challenged "the court's alleged failure to consider a kinship placement for the child," citing § 4003(3-A). The Law Court noted:

The placement she suggested—her own mother—was carefully considered by the Department, the guardian ad litem, and the court early in these proceedings, and was found to be completely inappropriate. This argument is not persuasive and we do not discuss it further.

Id. ¶ 10 n.2.

Statutes Addressing the Role of Relative Caregivers in Permanency Planning

The Legislature also enacted in 2005 several provisions—many of which implemented and expanded on ASFA requirements—concerning permanency plans. Some of the language added that year expressly addresses the role of relatives. Section 4038-B(4) specifies that "whether and when, if applicable" the child will be placed "with a fit and willing relative" is a determination that must be included in the contents of a permanency plan. The Legislature also enacted 22 M.R.S.A. § 4038-C which created the permanency guardianship as another option for a permanency plan. 2005 Ch. 372, enacting 22 M.R.S.A. § 4038-B(4)(A)(3). The bill originated from recommendations of the Subsidized Guardianship Workgroup based on its work with the Cornerstone Consulting Group, an organization that helped several states establish these kinds of guardianships. Among the goals identified for adding this potential permanency option, as explained by the Department's testimony in support of the legislation: "This alternative is expected to promote and increase the use of relatives as a guardianship resource who are committed to keeping siblings and family groups together. This has the potential to increase the number of children who remain in their communities through placement with relatives or other individuals who have existing relationships with the child."

The permanency guardianship statute also allows the child's parent, grandparent, or sibling to petition the court for contact with the child during the period of the permanency guardianship. 22 M.R.S. § 4038-E(3).

Statutes Addressing Sibling Placement

As compared with the numerous provisions addressing the role of adult relatives, Maine's Child Protection Act says little regarding a child's minor siblings. The only statute that expressly addresses siblings in child protection matters (other than notice provisions) is the 2006 Sibling Visitation Act, P.L. 2005 ch. 526, which enacted 22 M.R.S. § 4068. The statute does not address placement, only visitation for siblings in state custody or separated by adoption. It provides:

If the court determines that it is reasonable, practicable and in the best interests of the children involved, the court shall order the custodian of the child who is the subject of the child protection proceeding and any party who is the custodian of a sibling of the child to make the children available for visitation with each other.

22 M.R.S. § 4068(1). The term “sibling” is not defined in that provision or elsewhere in the child protection statute. However, in 2015 the Legislature amended § 4036-B(3-A), which requires the Department to notify certain relatives when a child has been removed from care, including “all parents of a sibling of a child who have legal custody of the sibling.” P.L. 2015 ch. 381, § 4. The statute implements requirements of the Preventing Sex Trafficking and Strengthening Families Act of 2014 noted above, including the definition of “sibling”: “‘sibling’ includes an individual who would have been considered a sibling of the child but for a termination or other disruption of parental rights, such as the death of a parent.” See 42 U.S.C. § 675(12).

Maine Laws as Compared with Those of Other States Regarding Relative and Sibling Placement

As part of our research, we also reviewed relative and sibling placement laws in other states. There is a significant variety of approaches among states. Federal child welfare law permits individual states to define who is a child’s “relative” in child welfare matters. As noted above, Maine defines relative as “the biological or adoptive parent of the child’s biological or adoptive parent, or the biological adoptive sister, brother, aunt, uncle, or cousin of the child.” 22 M.R.S.A. § 4002(9-B). Compared to the vast majority of other states, this is a fairly restrictive definition. A number of states do not define “relative” in the statute, while others have enacted definitions ranging from relatives through blood, marriage, and adoption from the first to fifth degrees. Some states define “relative” by outlining every individual that qualifies. Others simply specify to the degree. More recently, a few states have also taken legislative measures to define “kin” or “fictive kin” to include individuals who are typically not related to the child by blood but are individuals with whom the child has resided or had substantial contact and with whom the child shares a healthy bond. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child’s Tribe or, in the absence of law or custom, as provided in the Indian Child Welfare Act of 1978.

Most states, including Maine, give preference or priority to relative placements by statute, and the remaining do so through agency regulation. The language of these laws varies considerably. As noted earlier, the Maine Legislature essentially codified the federal statutory language which states that “the State shall consider giving preference” to a relative placement. Maine appears to be the only state to do so. Common phrasings among the states require that “preferential consideration shall be given” or that children “shall be placed” with relatives unless doing so is contrary to the best interest of the child. Alternatively, some states indicate that children “may be placed” or that the child welfare agency “shall attempt to place” with relatives or kin. In addition to giving relative placements a preferential consideration, some state laws outline a specific list of most to least preferred placements.

LD 1187 proposes language to amend 22 M.R.S.A. § 3-A “Purposes” language regarding “Kinship placement” and in § 4005-E(2) regarding relatives’ ability to request placement to create a

“rebuttable presumption” that “placement with a relative is in the best interests of the child.” No other state has enacted such a presumption regarding relative placement in its child welfare law, and, as discussed below, I did not find much support for this approach from my discussions with stakeholders.

Several states have enacted language creating preferences regarding keeping siblings together, whereas Maine’s law has no such provision. For example, some state statutes have language that requires state child welfare officials to make “reasonable efforts” to keep siblings together (Arizona Rev. Stat. § 8-513(D)) or that such placements should be made whenever “practical and appropriate,” (California Welf. & Inst. Code §§ 306.5; 358.1). Some of these provisions specify that siblings should be placed together unless such placement would be “contrary to the safety or well-being of any of the siblings” (Nebraska Ann. Stat. § 43-1311.02) or similar language regarding the children’s interests. A few states have enacted stronger requirements. For example, Colorado’s law provides:

[I]f the county department locates an appropriate, capable, willing, and available joint placement for all of the children in the sibling group, the court shall presume that placement of the entire sibling group in the joint placement is in the best interests of the children. Such presumption may be rebutted by a preponderance of the evidence that placement of the entire sibling group in the joint placement is not in the best interests of a child or of the children.

Colorado Rev. Stat. §19-3-605(2) (see also Washington Rev. Code § 13.34.130). Some state laws require that, if siblings cannot be placed together, arrangements are made for visitation and other continuing contact (e.g. Missouri Ann. Stat. § 210.565).

OCFS Policies

Maine’s OCFS has adopted several policies that make clear that the Department’s objective is to engage relatives early and extensively. The primary policy is “V. D-7. Relative Placement and Kinship Care Including Fictive Kin,” the current language of which has been in effect since February 28, 2007. The policy defines “Kinship Care” as “any relationship that involves the full time care of a child or children by the following people: an individual who is related to the child by blood, marriage or adoption through close family relationships that are acknowledged by the parents, tribe, or child.” It designates as “formal kinship care” “living arrangements [] made through the child welfare system and the court process.” It also defines “Fictive Kin,” and notes that they “may also be referred to as ‘alternate caregiver’” in the policy.

In its description of the OCFS philosophy, the policy states: “The Department firmly believes that whenever possible children need to be placed with relatives or with someone with whom they have a significant bond or connection.” It notes that “Determining who constitutes family is a critical component of our work” and that it is a “fluid process” that begins from the first interactions with the family. It observes that strong family connections can be an important part of preventing removal as well as post-removal placement.

The policy describes the benefits of kinship placement as well as the “special considerations” to take into account when assessing a potential placement. Specifically, placement with relatives may not be appropriate in families with significant problems “related to child abuse, substance abuse, and domestic violence” or where there are “impaired relationships between the potential caregivers and their own children.” For all of these reasons: “The Department will depend on an up-to-date assessment to determine the relatives’ or other fictive kin’s ability to provide for the safety and well-being of the child.”

The policy next describes its purpose as: “to clarify the importance of relative placements, as well as to emphasize the importance of the preservation of family relationship and familial bonds.” It goes on to state: “our preferred practice is to minimize the impact of separation of family and the familiar environment. This includes community, church and schools, as well as family.” It provides further description of the potential benefits to a child from relative placement.

Although, as noted above, the Maine Legislature has not enacted any provisions specifically addressing sibling placement, OCFS has had a sibling placement policy in place since 2002. Policy “V. E-1. Sibling Placement and Visitation” notes at the outset the importance of recognizing and respecting sibling relationships, which are unique. Its purpose is stated as: “Placement of siblings together should be made a priority in case planning and implementation of the case plan. Valid reasons must be identified and documented for not placing siblings together. Placement of siblings together can serve many purposes.” It then lists several “primary purposes” for such placement including “Preservation of the sibling relationship and bond,” minimizing or mitigating “the impact of separation from family and familiar environment,” and minimizing trauma, among others.

The policy notes that sibling placement is not always possible and outlines some reasons why it would be inappropriate, such as abuse between the siblings, special needs of one sibling, or the limited resources of a placement. The policy lists guidelines for sibling placement decisions, including considering the children’s views and keeping siblings in close geographic proximity even if they cannot be in the same placement. Where siblings cannot be placed together, the policy requires OCFS to facilitate contact between siblings through visitation, phone contact, letter writing and e-mail. In addition to this policy, OCFS has adopted other measures to maintain sibling connections, such as supporting the work of Maine’s Youth Leadership Advisory Team, including the development of the Sibling Bill of Rights.

Finally, with respect to adoption placements, the policy states that siblings should be placed together “unless there is there clear evidence that separation is necessary.” And if there is separation, OCFS “will encourage pre-placement and adoptive homes to have sibling visits.”

The Effectiveness of the Child Protection Act in Facilitating Relative and Sibling Placement

Our review of the applicable statutes and policies—in terms of both their language and implementation—revealed few significant gaps in or problems with the Child Protection Act’s provisions regarding relative placement. As described above, Maine law reflects a strong policy goal of ensuring that children involved in child protection matters can, to the extent consistent with their safety and well-being, maintain strong connections with their siblings, grandparents, and other

relatives. There is a consensus among judges, GALs, caseworkers, and advocates that, when a child cannot live in their parents' home, they should, whenever possible, live with another close relative.² All agree that the laws, policies, and actions of state government should also support those relative caregivers to the greatest extent possible so that they can continue to have these children in their case, as long as may be necessary.

Stakeholders reported that Maine's child welfare laws themselves are well-written, reflect appropriate policy choices, and provide a good balance of direction and discretion for the District Court. In addition, they confirmed that current OCFS policy appropriately reflects laudable goals and that, in recent years, there has been a significant improvement in the degree to which those policies are used in practice. Specifically, the Department has done a far better job of identifying and engaging relatives early in the child protection process, placing children with relatives whenever possible, assisting relative caregivers throughout the licensing, reunification, and permanency planning process, and using best efforts to ensure that siblings can live together or at least maintain regular contact. Some of the stakeholders we consulted reported that, based on their experiences with specific cases, not all OCFS front-line representatives consistently follow this approach to kinship and sibling placement. However, where there have been problems, they do not stem from a deficiency of any law or policy; rather, they reflect an over-burdened and under-resourced child welfare system. Many stakeholders observed that the opioid epidemic has severely exacerbated existing problems in recent years.

Although Maine's Child Protection Act already receives high marks for addressing relative involvement and placement, I have identified some statutory changes that could be helpful in furthering the policy goals and practices regarding relative and sibling placement in child protection matters. The Child Protection Act must enable OCFS to identify and to engage relatives as early as possible, as described in its policies. In some cases, relatives who are not prepared to serve as a placement during initial removal could do so later if equipped and supported. It is most important to determine as soon as possible what kind of role they hope to play during reunification and, if necessary, permanency. Long-term placement with non-relative foster parents can complicate relative and sibling placement later, due to children's need for stability. It is important that foster parents understand that their role is temporary, especially if there are relatives who are actively working towards becoming the caregivers. Some relatives who serve as or seek to become placements and who are initially identified as potential placements, cannot be approved for a foster care license. In some instances, the relatives may be able to proceed and become an unsubsidized placement. On other occasions, the reasons that ruled out licensure are also the reasons they are not deemed suitable for temporary or permanent placement of the child.

The current statutory provisions regarding notification to and participation of relatives seems to be working appropriately and effectively overall. However, the statute currently lacks a clear pathway for participation at the various levels permitted by the law. Accordingly, I offer a suggestion below regarding how the statute can lay out such a pathway.

² Indeed, this approach is reflected in recent data. One national study (Generations United, *The State of Grandfamilies in America* (2016)) found that 31% of children in foster care in Maine were placed with relatives, as compared with a 29% national average.

The statute provides a role for the District Court in reviewing OCFS placement decisions, and it is a role that courts take seriously. It is not advisable to include too many restrictions and requirements for the court's decision-making. Each situation must be evaluated individually, with particular attention to the needs of each child and the capacity of the parents and other proposed caregivers. The situation can be dynamic and must be adaptable, with regular oversight by the court.

For these reasons, it is critical to ensure that courts continue to have the ability to make child-specific decisions. Maine District Court judges have a clear understanding of the policy goals of relative and sibling placement and the need to balance these with the paramount goal of ensuring children's health and safety while minimizing uncertainty and instability for children. *See* § 4003. When there are disputes regarding placements, either between a relative and a foster home or among relatives, determining the child's best interests does not usually require judges to make a close call. If a relative was not selected for placement, it is usually well documented in the case history and court record, even if the relative does not accept the reasons.

Several stakeholders noted that the Child Protection Act does not have a set of "best interest" standards, unlike the parental rights and responsibilities statute (19-A M.R.S. § 1653(3)) and the minor guardianship statute (18-A M.R.S.A. § 5-101(1-A)). There are standards in the Child Protection Act addressing jeopardy and termination of parental rights, but there is far less guidance in the statute for courts or OCFS when placement or permanency decisions must be made between relatives. District Court judges' practice is to follow the best interest standard in 19-A M.R.S. § 1653(3), to the extent the factors apply to a specific case. While the factors listed there are not a perfect fit because they are intended for use in cases where a court must determine the rights and responsibilities of competing parents, the questions are similar in child protection matters when there is a dispute about what should be the child's placement.

The District Court judges we consulted (who sit all over the state and have varying levels of experience in child protection matters) universally thought that a "rebuttable presumption" in the statute would be at best unnecessary and at worst a source of confusion. They expressed that the effect of existing kinship preference language is to make it a given that the child should be placed with relatives, unless the child's best interest compels a different outcome. Their observation is that OCFS supervisors and social workers operate consistent with such a policy as well, and therefore if a child has not been placed with a relative by the time the court is reviewing the matter, there is invariably a reason why that is the case.

In terms of sibling placement, the impression by nearly all stakeholders is that OCFS does its best to keep siblings together, consistent with the OCFS policy described above. However, the inclusion of a relative placement preference without reference to siblings fails to capture current practice and the broader policy goals of the Child Protection Act.

Proposals for Statutory Reform

Broaden Definition of "Relative"

OCFS policy and practice is to engage caregivers with an existing relationship with the child, drawn from a pool of people that may include family members who do not fit the statutory definition of "relative." In addition, the Maine Parentage Act reflects the fact that one may become a parent

through a route that is not necessarily “biological or adoptive.”³ For these reasons, the Legislature should consider amending the somewhat restrictive definition of relative under section 4002(9-B) to include all family members to the third degree, expanding the pool to great aunts and uncles, great grandparents, adjudicated parents, and persons who adopt a child’s siblings. For example, the definition of “relative” could be revised as follows:

§4002. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings...

9-B. Relative. “Relative” means the biological or adoptive parent of the child’s biological or adoptive parent, or the biological or adoptive sister, brother, aunt, uncle or cousin of the child, or any other family member of the child to the [third] degree through blood, adoption, or parentage established under Title 19-A, chapter 61, any adoptive relative of equal propinquity to the foregoing, or a spouse of any such persons. For an Indian child, relative also includes members of the extended family as defined by the law or custom of the Indian child’s Tribe or, in the absence of law or custom, as provided in the Indian Child Welfare Act of 1978.

The Legislature should also amend the definition of “grandparent” in section 4005-D to be consistent with the Maine Parentage Act and 22 M.R.S.A. § 4002(7) (defining “parent”):

§4005-D. Access to and participating in proceedings

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings....

B. "Grandparent" means the biological or adoptive parent of a child's biological or adoptive parent. "Grandparent" includes the parent of a child's parent whose parental rights have been terminated, but only until the child is placed for adoption.

Sibling Placement Preference

Although OCFS has adopted a policy that articulates a strong preference for sibling placement, Maine’s Child Protection Act is silent on such placements (as compared with the preference for relative placement). Accordingly, it may be appropriate to include language that reflects Maine’s strong preference for such placements.

A simple solution would be to amend 22 M.R.S. § 4003(3), to clarify that sibling placement is among the “Purposes” of Child Protection Act. Thus, that section could read:

“Kinship and sibling placement. Place children who are taken from the custody of their parents with an adult relative and with their siblings when possible,”

³ The Legislature has already revised the definition of “parent” in the Child Protection Act to reflect the Maine Parentage Act. 22 M.R.S. § 4002(7).

And 22 M.R.S.A. § 4062(4) could be amended as follows (using language similar to Minnesota's law):

Kinship and sibling preference. In the residential placement of a child, the department shall ~~consider giving~~ give preference to an adult relative over a nonrelated caregiver when determining placement for a child, as long as the related caregiver meets all relevant state child protection standards. The department shall use reasonable efforts to place siblings in the department's custody together at the earliest possible time, unless such placement would be contrary to the safety or well-being of any of the siblings or if there is no placement that is appropriate for all siblings.

Statutory Standard for Assessing Children's Best Interests

Although Maine's Child Protection Act does not set forth a specific definition or set of factors to be used to determine a child's best interest, those involved in these proceedings understand that a child's needs in terms of their emotional and physical health, safety, stability, and well-being must be the foremost consideration for determining placement and permanency. Accordingly, I recommend that 22 M.R.S.A. § 4002, which sets forth the definitions applicable to the Child Protection Act, be amended to include the following:

1-B. Best interest. "Best interest" means the best interest of the child as determined under 19-A, section 1653, subsection 3.

Alternatively, the Legislature could adopt a variation on the definition used in the guardian ad litem statute in 4 M.R.S. § 1551(1):

1-B. Best interest. "Best interest" means an outcome that serves or otherwise furthers the health, safety, well-being, education and growth of the child. In applying the standard of best interests of the child, the relevant factors set forth in Title 19-A, section 1653, subsection 3 must be considered.

Engagement and Participation by Relatives in Placement Determinations

As noted above, while most stakeholders had few or no suggestions for substantive changes to Maine's child protection statutes, I do note that the provisions regarding the role of a child's relative are scattered throughout the Child Protection Act and could be clearer in terms of how and when a relative should become involved in the matter, particularly as a potential resource for placement. Moreover, stakeholders shared with us that the greatest potential for conflict can arise when one or more relatives seeks a role late in the process in competition with a different relative or a non-relative foster parent. This can be disruptive and destabilizing, and it diverts resources away from both reunification and permanency planning. Accordingly, I suggest that the Legislature enact a pathway, perhaps located in 22 M.R.S.A. § 4005-E, clarifying the responsibilities of the Department and relatives seeking placement, along these lines:

Responsibilities of the Department and Relatives Seeking Placement. To effectuate the kinship preference set forth in section 4062(4):

A. At the earliest opportunity, the department shall ask each identified and responsive parent to provide the names and contact information for:

(1) relatives who have provided care for the child on a temporary basis;

(2) relatives who, in the parent's opinion, would be safe caregivers during reunification; and

(3) relatives who, in the parent's opinion, would be safe visit supervisors or would support reunification in other respects.

B. Within 14 days, the department shall conduct a child protection background check on each individual named by the parent pursuant to subsection (A). For any individual with a child welfare substantiation history or the equivalent from another jurisdiction, the department need not pursue the person further as a resource, except if circumstances warrant an override, approved by a department supervisor.

C. Within 14 days, the department shall conduct a criminal background check on each individual named by a parent pursuant to subsection (A). For any individual with a criminal record relevant to their ability to provide safe care for the child, the department need not pursue the person further as a resource, except if circumstances warrant an override, approved by a department supervisor.

D. Relatives must engage in the foster home licensing process if they wish to be considered for permanent placement, including attending training, cooperating with a home study, and promptly addressing any licensing deficiencies. The department need not pursue any relative as a resource if the person fails to engage in the licensing process at the earliest opportunity, except if circumstances warrant an override, approved by a department supervisor.

E. The department is required to consider placing children with only those relatives who have asserted their interest in serving as caregivers during reunification and have engaged in the licensing process at the earliest opportunity. Other relatives seeking placement may ask the District Court for placement when the court determines the child's permanency plan pursuant to section 4038-B.

F. Prior to the permanency planning hearing pursuant to section 4038-B, if there is a placement dispute between relatives or a dispute between a relative and a non-relative foster parent, the District Court may require those individuals to attend mediation with a court-designated mediator. The goal of such mediation would be to reach an agreement on permanency that preserves the child's important relationships with all the individuals. The guardian ad litem shall attend. The Department's representative may attend. Any agreement resulting from that mediation shall be shared with the court and be considered by the presiding judge.

G. At the permanency planning hearing pursuant to section 4038-B, if there is an unresolved dispute about placement of the child, the District Court shall determine which placement among competing applicants is in the child's best interest. The judicial decision on placement resulting from the permanency planning hearing shall be the preferred placement in future proceedings concerning the same child, unless at the time of such proceeding the evidence concerning the child's emotional and physical health, safety, stability, and well-being compels changing the child's placement.

The adoption of such provision would require amendments to other provisions in sections 4005-D and 4005-E to ensure consistency.

Non-Statutory Measures to Support Relative Placement Policy Goals

In addition to the above-proposed amendments to Maine's Child Protection Act, there are some additional measures that the state could take that would advance the policy goals of engaging a child's relatives early in a child protection case and supporting relative caregivers. I note that the following suggestions are similar to some already under consideration by the OCFS Kinship Advisory Board, which has been meeting regularly throughout the fall.

Federal Funding to Launch Kinship Navigator Program

A recurring theme among relative caregivers and those who serve them is the acute need for access to information and advice about their role in the child protection process and resources that are available to relative caregivers. In some instances, relatives seek the help of an attorney, but an opportunity to meet with a trained professional who knows the full range of options, pathways, and resources may be more valuable. The non-profit organization Adoptive and Foster Families of Maine has a contract with the Department to provide information, training, and guidance to foster and kinship care providers. In addition, the Child Welfare Ombudsperson can also be a source of information, and, if needed, advocacy with the Department. Although the work of these resources is lauded and respected, there is a perception that there remains an unmet need for individualized information and counseling for these families.

In 2008, Congress enacted the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 (2008), with the purpose of amending federal child welfare law "to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes." Among other things, the new law authorizes "Family Connection" Grants to states to establish kinship navigator programs that help link relative caregivers to a broad range of services and supports for them and the children they raise. §627(a)(1).

Specifically, it allows the U.S. DHHS to provide matching grants (75% for the first two years, and 50% for the third year) to state child welfare agencies:

"... for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members through the implementation of—

(1) a kinship navigator program to assist kinship caregivers in learning about, finding, and using programs and services to meet the needs of the children they are raising and their own needs, and to promote effective partnerships among public and private agencies to ensure kinship caregiver families are served,..."

The federal law sets forth several specific requirements for the navigator programs, and it also permits states to: "establish and support a kinship care ombudsman with authority to intervene and

help kinship caregivers access services... [and] support any other activities designed to assist kinship caregivers in obtaining benefits and services to improve their caregiving.” §§ 427(a)(1)(F),(G). Congress extended funding for the Family Connection Grants in 2014, pursuant to the Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183 (2014).

OCFS reports that it does not receive funding through this program at present, and the Department may want to explore this potential funding source to launch a kinship navigator program.

Develop Resource Materials for Relative Caregivers

OCFS can also develop resource materials for relative caregivers that provide information about the child protection process and their role in it. For example, the Vermont Department for Children and Families has a helpful website, “Resources for Kinship Caregivers in Vermont” (<http://dcf.vermont.gov/resources/kin>), which includes two guides: “Vermont Kinship Caregiver Guide” and “Guide for Kinship and Foster Families in Vermont.” The “pathway” model described above would provide a sound framework for providing guidance to relatives.

I appreciated the opportunity to work with your Office and to participate in this review. Please let me know if I can be of further assistance.

Sincerely,



Deirdre M. Smith
Professor of Law and
Director of the Cumberland Legal Aid Clinic

SUMMARY OF STRATEGIC INITIATIVES

The Office of Child and Family Services completed an extensive review of the internal Child Welfare System during the late winter and early spring of 2018. This review entailed a detailed look at specific cases as well as the resulting evaluation of overall Child Welfare practice and policy decisions. As a result of this internal review, the Office of Child and Family Services has initiated several strategic initiatives as detailed below.

Initiative 1: Improve Service of Contracted Alternative Response Providers (ARP)

Objective: Ensure all ARP cases in a certain district are appropriately served and increase monitoring and oversight of ARP service providers and referrals in all districts to ensure high quality work. This effort included monitoring reassignment practices to ensure that no “Appropriate” reports are closed by the ARP provider before an assessment of child safety is completed.

Status: This objective was initiated in March 2018 and has been completed.

Initiative 2: Ensure Consistent, High-Quality Casework Practice for Child Welfare Services

Quality Improvement Objectives

- *Objective:* Increase quality review of casework practice statewide through implementation of the Quality Improvement Program. This program increases oversight of casework practice through continuous, real-time review of Child Welfare caseworker documentation.

Status: This objective was initiated in July 2017 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Obtain consistent statewide practice through implementation of the Structured Decision Making tool to strengthen consistent, research and evidence-based decision making across Child Welfare practice. This tool provides a structured guideline against which caseworkers can benchmark their decision-making and determine next steps.

Status: This objective was initiated in the spring of 2016 and will continue to be an ongoing focus of OCFS work.

Intervention Objectives

- *Objective:* Increase high quality statewide practice through continued implementation of the Family Teaming Practice. Family Teaming Practice increases engagement of caregivers and their informal supports—which are such non-paid supports as relatives and neighbors. This “teaming” works to create a plan to meet the safety needs of children involved with Child Welfare interventions.

Status: This objective was initiated in June 2016 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Increase child safety-focused interventions by transitioning from the use of contracted providers (ARP) for assessments of Reports of Abuse. This action increases safety of children involved with child welfare interventions by having only Child Welfare caseworkers conduct assessments related to reports of abuse.

Status: This objective was initiated in the summer of 2017 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Strengthen consistent statewide practice and reduce permanency timeframes by discontinuing Out of Home Safety Plans. This action mitigates risk related to the practice of agreeing to place a child outside of their parents' home(s) with another caretaker, without a court directive and court oversight.

Status: This objective was initiated in February 2018 and will continue to be an ongoing focus of OCFS work.

Personnel, Management and Training Objectives

- *Objective:* Complete personnel investigation of two recent cases to review and make recommendations for improvement in Child Welfare practice.

Status: This objective was implemented in December 2017 and expanded in February 2018. This has been completed.

- *Objective:* Implement the supervision "case review toolkit." Caseworker supervisors will use the toolkit to strengthen high quality, consistent casework practice across all districts. This toolkit also increases oversight and improves caseworker supervision.

Status: This objective was initiated in January 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Create two additional Child Welfare Regional Director Positions and implement the Chief Operating Officer model to increase oversight of the work in each of the eight districts, including intake practice and statewide operations.

Status: This objective was initiated in May 2018 and is still in the process of being completed.

- *Objective:* Re-class Intake and Assessment Child Welfare Human Services caseworker lines. This action increases the training requirements and expectations related to these positions, with a focus on investigation of child abuse and neglect.

Status: This objective was initiated in April 2018 and is still in the process of being completed.

- *Objective:* Increase training requirements for all Child Welfare caseworkers and supervisors. This action improves practice within Child Welfare and therefore creates increased child safety.

Status: This objective was initiated in April 2018 and is still in the process of being completed.

- *Objective:* Increase Child Welfare oversight and case review at the District level through adding clinical supervision by a clinical psychologist, which increases high quality casework practice. This objective was initiated in April 2018 and has been partially implemented.

Status: This will continue to be an ongoing focus of OCFS work.

- *Objective:* Increase caseworker retention and performance by implementation of trauma debriefing and a semi-annual psychological evaluation of staff. A similar system is employed by the Department of Public Safety to ensure the psychological wellbeing of workers.

Status: This objective was initiated in April 2018 and is still in the process of being completed.

- *Objective:* Review, plan and implement a Field Instruction Unit (an internship and training program created in partnership with University and College systems) for recruitment of high quality Child Welfare staff.

Status: This objective was initiated in April 2018 and is still in the process of being completed.

Statutory, Regulatory, and Policy Objectives

- *Objective:* Increase focus on the “Child’s Best Interest” through a full review of relevant statutes and policies and the implementation of the resulting recommended changes. This action strengthens the statewide approach to Child Welfare intervention by prioritizing the best interests of the children.

Status: This objective was initiated in April 2018 and will require statutory changes to complete.

- *Objective:* Change Mandated Reporting Statute to create a penalty for failure to report. This action ensures that the professionals required to make mandated reports do so.

Status: This objective was initiated in April 2018 and will take legislative action to complete.

- *Objective:* Review current Child Welfare policies of a 35-day timeframe for assessments and a 72-hour response timeframe for suggested changes in practice. This action increases child safety focused practice to increase the information available to Child Welfare caseworkers as they make decisions regarding child safety.

Status: This objective was initiated in April 2018 and is still in the process of being completed.

Initiative 3: Strengthen the Intake Process Related to Reports of Abuse

- *Objective:* Increase ability to holistically review Reports of Abuse by updating the Intake process to make all Reports of Abuse separate reports. This action increases high quality practice in the review of Reports of Abuse and ensures that the gravity of repeat reports is easily noticed and assessed within decision making for dispositions of incoming reports of abuse.

Status: This objective was initiated in March 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Increase the ability to recognize risk as demonstrated through multiple Reports of Abuse by implementation of an automatic Child Welfare Assessment. Circumstances where three “Inappropriate” reports have been filed within six months—in other words, when there are three alleged abuse reports that did not meet the threshold for Child Welfare intervention—a Child Welfare Assessment will automatically be triggered. The Child Welfare Assessment will be conducted in addition to the review of any Report of Abuse for appropriateness of Child Welfare Intervention.

The triggering of an automatic Child Welfare Assessment increases high quality practice in the review of reports of abuse – ensuring that patterns revealed via repeated reports will be assessed within the decision-making protocols for dispositions of reports of abuse.

Status: This objective was implemented in March 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Decrease the wait time for calls related to Reports of Abuse received by the Child Welfare Intake staff. This action increases high quality practice in the receipt and review of reports of abuse.

Status: This objective was initiated in March 2018 and will continue to be an ongoing focus of OCFS work.

Initiative 4: Improve Child Safety Decision-Making Through Improved Access to and Management of Information Available to Caseworkers

- *Objective:* Increase efficiency of caseworker access to state and federal background checks. This action increases the information available to Child Welfare caseworkers as they make decisions regarding child safety.

Status: This objective was initiated in April 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Change statutes to provide authority to Child Welfare staff to access education records. This action increases the information available to Child Welfare caseworkers as they make decisions regarding child safety.

Status: This objective was initiated in April 2018 and will take statutory changes to complete.

- *Objective:* Implement a tracking system for cases identified within the Child Death Serious Injury Policy to inform trends and develop a trend report. This report will guide review of cases and make recommendations for improvement in Child Welfare practice.

Status: This objective was implemented in March 2018 and is still in the process of being completed.

- *Objective:* Change Expungement Practice to increase robustness of Child Welfare records. This action increases the information available to Child Welfare caseworkers as they make decisions regarding child safety.

Status: This objective was initiated in March 2018 and is in the process of being completed.

Initiative 5: Increase Efficiency and Effectiveness of Casework Practice

- *Objective:* Increase efficiency and effectiveness of the Electronic Data System by implementing a Comprehensive Child Welfare Information System (CCWIS). This action increases the efficiency of documentation and increases thorough oversight and supervision, as well as improves the quality reports and data.

Status: This objective was initiated in fall 2017 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Implement efficiencies for casework practice by instituting Court Workers for Child Welfare caseworkers. These individuals will be DHHS staff assigned to assist in the preparation of child welfare court cases to increase the efficiency of Child Welfare casework related to court activities.

Status: This objective was initiated in March 2018 and will continue to be an ongoing focus of OCFS work.

Initiative 6: Strengthen Overall System of Child Welfare Practice

Implementation of New Practices Objectives

- *Objective:* Create and implement a SWOT Team for review of OCFS Child Welfare Practices and Procedures to identify System Strengths and Areas of Need. The SWOT Team will be charged with making recommendations for additional improvements in Child Welfare practice.

Status: This initiative was implemented in March 2018 and is still in the process of being completed.

- *Objective:* Implement the Community Intervention Program (CIP) to increase services available for families at-risk of child abuse by providing these families assistance in identifying risks and successfully obtaining informal and formal supports aimed at reducing those factors.

Status: This objective was initiated in summer 2017 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Complete review of Children's Behavioral Health System to improve Child Welfare practice and the availability of Children's Behavioral Health services to meet the needs of children involved with Child Welfare interventions.

Status: This objective was initiated in March 2018 and will continue to be an ongoing focus of OCFS work.

Implementation of Practices for Populations with Specific Risk Factors

- *Objective:* Implement Plan of Safe Care procedures and policy to ensure that the needs of children who are exposed to substances are addressed appropriately.

Status: This objective was initiated in April 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Complete review of Child Welfare practice and implement practice changes for cases involving self-injury and medical neglect.

Status: This objective was initiated in May 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Complete review of Child Welfare practice and implement practice changes for cases involving unexplained injury to children under the age of five. Review of cases by a Child Abuse Physician Expert improves Child Welfare practice.

Status: This objective was initiated in May 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Complete review of Child Welfare practice and implement practice changes for cases involving children with disabilities.

Status: This objective was initiated in May 2018 and will continue to be an ongoing focus of OCFS work.

- *Objective:* Complete review of Child Welfare practice and implement practice changes for cases involving parents with disabilities.

Status: This objective was initiated in May 2018 and will continue to be an ongoing focus of OCFS work.

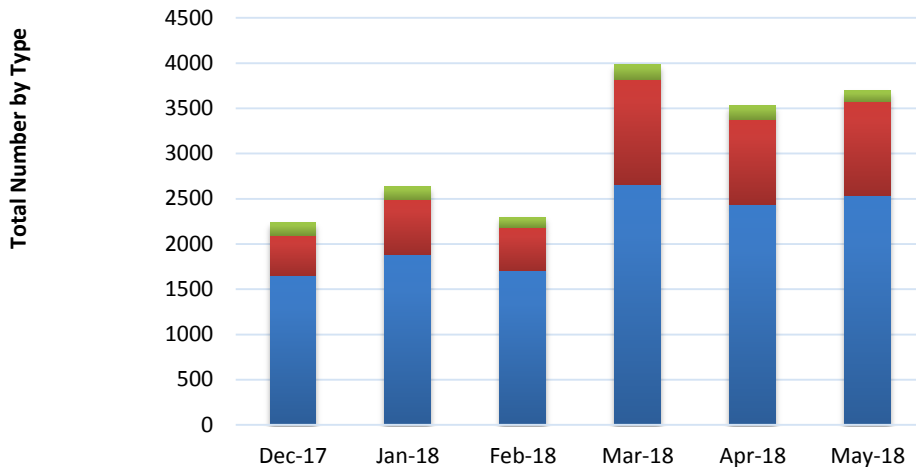
Conclusion

The Department has undertaken a significant review of the internal child welfare process. Although many of the reforms mentioned herein are in response to recent incidents, several were previously initiated and have been in the process of development and implementation. The Department has been in contact with corresponding agencies in other states to identify best practices for implementation in Maine.

This list of reforms is not exhaustive of all reforms that may be undertaken. Further reforms may be recommended or implemented upon the completion of additional, upcoming reviews. However, the Department can assure the public that these reforms have resulted in a more responsive and protective system. The public should have confidence that the Child Protective Service system can and will take action where appropriate to protect a child in a potentially abusive situation.

Child Protective Workload Overview, 6-18-18

Intake Reports and Assessment Assignments by Month



	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18
# Assigned to Contract Agency	135	140	109	165	150	117
# Assessments	453	607	484	1158	937	1037
# Intake Reports	1645	1882	1701	2657	2438	2536

The total number of intake reports and assigned assessments has risen significantly and remained steady since March 2018.

This table shows the cumulative increase in intake reports and resulting assessment activities as well as the specific monthly count of each activity type.

The number of assessments assigned to the District offices have increased by 115% since January 2018. This table shows the number of assessments assigned by District at three points in time: January 2016, January 2017, and 6/14/18.

ASSESSMENTS

115% INCREASE FROM THE NUMBER OF ASSESSMENTS ASSIGNED IN JANUARY 2017

DISTRICT	TOTAL OPEN ASSESSMENTS AS OF POINT IN TIME JANUARY 2016	TOTAL OPEN ASSESSMENTS AS OF POINT IN TIME JANUARY 2017	TOTAL ASSESSMENTS OPEN AS OF 6/14/18
1	105	79	201
2	103	95	186
3	172	167	392
4	58	60	194
5	200	145	235
6	104	106	241
7	57	48	83
8	54	63	112
STATE	853	763	1644

CRITICAL CASE MEMBERS* ASSESSMENTS
 *Number of Children and Adults in the Household

DISTRICT	TOTAL OPEN ASSESSMENTS AS OF POINT IN TIME JANUARY 2016	TOTAL OPEN ASSESSMENTS AS OF POINT IN TIME JANUARY 2017	TOTAL ASSESSMENTS OPEN AS OF 6/14/18
1	397	295	769
2	402	363	698
3	685	670	1495
4	231	241	710
5	795	588	922
6	392	413	850
7	219	177	297
8	207	238	418
STATE	3328	2985	6159

This table further explains the workload impact of current assessment activities. As of 6-14-18, there are 1,644 open assessments which include 6,159 individuals requiring assessment activities, which are known as critical case members.

Recent Practice Change and Resulting Assessment Impact

Increase the ability to holistically review Reports of Abuse by updating the intake process to make all Reports of Abuse separate reports. This action increases high quality practice in the review of Reports of Abuse and ensures that the gravity of repeat reports is easily noticed and assessed within decision making for dispositions of Reports of Abuse.

Additional Assessments March - May, 2018					Assessment Dispositions		
Initiative	Month		Total New Assessments	% of Total Monthly Assessment Count	Substantiated/ Indicated	Unsubstantiated	Not Yet Finalized
Third inappropriate report in 6 months (effective 3/26/18)	March		28	2%	1	22	5
	April		105	11%	17	59	29
	May		109	11%	0	0	109
Open Reports with New Reports Added to Case	March	24-hour response	10	1%			
	March	72-hour response	27	2%	13	11	13
	April	24-hour response	54	6%			
	April	72-hour response	193	21%	64	115	68
	May	72-hour response	205	20%	0	0	205
Assessments from cases previously assigned to ARP	March		303	26%	28	236	39
	April		42	5%	10	19	13
	May		46	4%	0	0	46
Month	Total Monthly Assessments		Total New Type of Assessments		% of Total Monthly Assessment Count		
March	1158		368		32%		
April	937		394		42%		
May	1037		418		40%		

Planned Practice Change and Projected Impact – End Use of ARP for Assessment and Intake Activities

Increase child safety-focused interventions by discontinuing the use of contracted providers (ARP) for assessments of Reports of Abuse. This action increases safety of children involved with child welfare interventions by having only Child Welfare caseworkers conducted assessments related to reports of abuse.

ARP REFERRALS

Includes referrals at Intake, Post Assessment and Post Case Closure

DISTRICT	TOTAL REFERRALS ASSIGNED TO ARP CY 2016	TOTAL REFERRALS ASSIGNED TO ARP CY 2017	TOTAL REFERRALS ASSIGNED TO ARP YTD 2018	Projected ARP Referrals CY 2018
1	376	355	118	256
2	280	318	135	293
3	700	675	295	639
4	340	331	57	124
5	473	432	118	256
6	367	307	86	186
7	152	148	66	143
8	151	205	80	173
STATE	2839	2771	955	2069

This table shows the number of additional cases that OCFS Child Protective Services (CPS) workers will receive with the end of the use of ARP services for assessment activities. There will be approximately 2,069 additional cases completed by OCFS CPS workers across the Districts with the implementation of this goal.

Planned Practice Change and Projected Impact – End the Practice of Out of Home Safety Plans

Strengthen consistent statewide practice and reduce permanency timeframes by discontinuing Out of Home Safety Plans. This action mitigates risk related to the practice of agreeing to place a child outside of their parents’ home(s) with another caretaker, without a court directive and court oversight.

Open Services Cases that require court oversight are more time-consuming work for caseworkers. However, this court directives and court oversight increase quality practice and decrease the length of time a case takes to reach permanency.

The District staff have already been notified of this practice change and have been implementing the change in practice.

SERVICE CASES		
DISTRICT	TOTAL OPEN SERVICE CASES with Out of Home Safety Plans AS OF POINT IN TIME MARCH 2017	TOTAL OPEN SERVICE CASES with Out of Home Safety Plan AS OF 6/14/18
1	56	19
2	37	0
3	42	19
4	18	6
5	80	33
6	60	10
7	30	6
8	6	2
STATE	329	95

**Assessment Positions and Caseloads by District
as of 6-15-18**

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	3
Assessment Caseworkers	13
District Caseworker Vacancies	1
Total Assessment Cases District 1	169
Caseload Average District 1*	12.5

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	4
Assessment Caseworkers	17
District Caseworker Vacancies	3
Total Assessment Cases District 2	162
Caseload Average District 2*	10.6

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	5
Assessment Caseworkers	14
District Caseworker Vacancies	4
Total Assessment Cases District 3	341
Caseload Average District 3*	23.9

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	2
Assessment Caseworkers	8
District Caseworker Vacancies	4
Total Assessment Cases District 4	148
Caseload Average District 4*	25.4

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	4
Assessment Caseworkers	20
District Caseworker Vacancies	1
Total Assessment Cases District 5	220
Caseload Average District 5*	11.7

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	3
Assessment Caseworkers	18
District Caseworker Vacancies	0
Total Assessment Cases District 6	217
Caseload Average District 6*	12

**Assessment Positions and Caseloads by District
as of 6-15-18 (cont.)**

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	2
Assessment Caseworkers	8
District Caseworker Vacancies	4
Total Assessment Cases District 7	76
Caseload Average District 7*	11

Unit Supervisor and Team	# of Assigned Positions
Assessment Supervisors	1
Assessment Caseworkers	5
District Caseworker Vacancies	0
Total Assessment Cases District 8	84
Caseload Average District 8*	19.3

Statewide Totals	Current Totals
Total Assessment Supervisors	24
Total Assessment Caseworkers	103
Statewide Total Assessment Cases	1417
Statewide Caseload Average	15.8

*Caseload averages are based on assessment caseworkers carrying a full caseload. Workers who are out on FML or on vacation were removed from the average in order to more accurately represent the actual workload of assessment staff. This information represents a current snapshot of assessment caseloads. Caseload is subject to variation. Assessment caseload has dramatically increased, starting in March of 2018. Please see Child Protective Workload Overview 6-18-18.