

ANNUAL REPORT 2023

IN ACCORDANCE WITH 33 V.S.A. § 3203(A)(6)

Submitted to: **Governor Phil Scott**
Vermont General Assembly
Senate Committee on Health and Welfare
Senate Committee on Judiciary
House Committee on Human Services
House Committee on Judiciary

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Executive Summary

Like all humans, children and youth desire basic autonomy, self-actualization, and the freedom to be themselves. Because children are young, it is often easy to overlook this basic truth. The best way to understand what is best for Vermont’s children, youth, and families is to ask them. Young people succeed when they thrive in their communities of origin, and the first job of policymakers at all levels is to help them stay there.

Children live in a variety of settings, including in their homes of origin, with kin, in foster homes, hotels, residential settings, psychiatric hospitals, and on their own. Their ability to thrive is directly connected to the roof over their head, their family’s economic circumstances, their education, access to accommodations, and safety.

According to the Department for Children and Families (“DCF”), as of October 1, 2023 there were approximately 1600 children and families in Vermont with high-level child welfare or juvenile justice involvement. Vermont continues to remove children from their homes and into foster care at concerning high rates, and DCF removes Black and multiracial children at rates 120% more than their presence in Vermont’s population would suggest. Vermont’s mandatory reporting laws contribute to these problems—the state has the highest rate of reports of suspected abuse or neglect of any state in the nation.

Research indicates that economic supports that go directly to families are more effective than money spent towards foster care. One of the best ways to support parents and families at risk for child welfare involvement is by offering them comprehensive financial supports that include access to quality health care, education, and housing. Each additional \$1,000 that Vermont spends on public benefit programs annually per person living in poverty could bring a reduction in child maltreatment reports, substantiated child maltreatment, foster care placements, and child fatalities due to maltreatment. Vermont should continue the positive steps it has taken in the last few years to enhance economic supports to low-income families. The state’s size and already-integrated economic support systems present real opportunities to innovate.

This Report calls on DCF to expand prevention supports and services to keep children with their families. With help from the Vermont Agency of Human Services (“AHS”), the legislature, and federal funding, DCF could expand services for pregnant and parenting youth, survivors of domestic violence, and parents struggling with substance abuse. It could support peer mentors, social workers, investigators, legal services, and youth voice in court. It could recruit a more diverse pool of foster parents, revise foster parent licensing regulations for kin, and promote high quality evidence-based residential treatment programs. Some of these changes require heavy lifts, but many can be made today, without fiscal appropriations or regulatory changes.



Reforms to Vermont’s juvenile justice systems should start from the perspective of young people themselves, elevating their voices, acknowledging their trauma, and reflecting consensus brain science. We must plan for prevention, high-quality treatment, and authentic trauma-responsive systems, not simply facilities. We should strengthen the child welfare and juvenile justice systems as promised by Act 60 of 2015 by fully funding them rather than by placing their costs onto the backs of the children, youth, and families they are supposed to serve.

Improving our systems starts with DCF. But the biggest issues identified in this Report, whether they are related to racial disproportionality, the high-end system of care, or overhauling data systems, demand collaboration, energy, and accountability from more than just one department. Policymakers at all levels must rise to the occasion to create the changes that will benefit all of us, starting with children, youth, and families.

Below is a summary of this Report’s recommendations. There are thousands of other recommendations that would also be effective. We look forward to our ongoing collaborations with the broad array of Vermonters that make us love this work and this state.

SUMMARY OF RECOMMENDATIONS IN THIS REPORT

OCYFA RECOMMENDATIONS REGARDING CHILDREN EXPERIENCING HOMELESSNESS (SECTION 1.2)

1. DCF and Vermont policymakers at every level should prioritize emergency temporary family housing, especially for families with protective services involvement, until they are able to access permanent housing.
2. DCF should continue to reduce administrative barriers within its programs for children, youth, and families experiencing homelessness by simplifying forms, procedures, and processes.
3. On a permanent, regular basis, DCF should report to the legislature on children experiencing homelessness in all of its programs and services, and should create a targeted plan that houses children, youth, and families in non-congregate spaces, using housing first principles.¹

OCYFA RECOMMENDATIONS REGARDING DISABILITY AND CHILD WELFARE (SECTION 1.3)

1. DCF-FSD, with assistance from AHS, should draft a policy on providing neurodiversity-affirming services and accommodations for parents and children with disabilities at all levels of the child welfare and juvenile justice systems, with input from appropriate community organizations.
2. DCF-FSD should issue regular reports on accommodations offered to parents and children with disabilities in the child welfare and juvenile justice systems, with particular attention to the intersection of race and disability.



3. DCF should engage an outside entity experienced in disability rights and child welfare to improve its neurodiversity-affirming practices and training.

OCYFA RECOMMENDATIONS REGARDING HOMES OF ORIGIN, KIN, AND HIDDEN FOSTER CARE (SECTION 1.4)

1. DCF-FSD should keep data on “hidden foster care,” including the frequency and outcomes of safety plans, and demographic data of kin homes.
2. The State of Vermont should financially support peer mentor models such as Families United in Brattleboro and consider broadening these councils to other regions of the state.
3. DCF should develop a policy and trainings on collaboration between birth and foster parents.

OCYFA RECOMMENDATIONS REGARDING TRANSITION-AGED YOUTH (SECTION 1.5)

1. The State of Vermont, AHS, and DCF should increase the number of Family Unification Program vouchers so that every youth exiting foster care is awarded one.
2. DCF should support revisions to Vermont statute to enable young people who have aged out of the foster system to access their records.
3. The Vermont legislature should consider expanding the Direct Cash Transfer Program statewide.²
4. DCF should partner with Vermont’s institutions of post-secondary education to ensure free tuition and room and board for every young person who ages out of state custody and is admitted to a post-secondary institution in the state.
5. The State of Vermont should expand extended foster care in Vermont through the use of federal funding (see [Section 2.6](#)).

OCYFA RECOMMENDATIONS REGARDING MANDATORY REPORTING (SECTION 2.1)

1. The Vermont legislature should consider revisions to its mandatory reporting statutes.
2. DCF and the Vermont Child Welfare Training Partnership should consult with community and policy experts as it revises its mandatory reporting trainings.

OCYFA RECOMMENDATIONS REGARDING ECONOMIC SUPPORTS TO CHILDREN, YOUTH, AND FAMILIES (SECTION 2.2)

1. The State of Vermont should consider creative ways of improving the financing of child welfare, including fully funding Reach Up, bolstering the Vermont child tax credit, and instituting baby bonds in Vermont.³
2. The State of Vermont should analyze its system of economic supports through an equity lens, uplifting the voices of impacted people, prioritizing concrete needs, codesigning supports with people with lived experience of the system, and focusing on strengths.⁴



OCYFA RECOMMENDATIONS REGARDING FFPSA AND TITLE IV-E (SECTION 2.3)

1. DCF should revise kin licensing rules to lower barriers to kin foster home licensing, consistent with new federal regulations.
2. DCF should track and publish demographic data on foster homes, including data aggregated by race, sexual identity, and disability status.
3. DCF should maximize Title IV-E funding for prevention-focused professional development, education, and training, to include childcare providers, mental health clinicians, mentors, birth parents, foster/kin caregivers, DCF workers, treatment providers, and school personnel.⁵
4. AHS should adopt system-wide recommendations from the 2020 “Analysis of Children’s Residential System of Care” report.⁶
5. DCF should fully implement the Family First Prevention Services Act (“FFPSA”) and regularly report to the legislature on the number of in-state Qualified Residential Treatment Programs (“QRTPs”), the hiring status of a QRTP Judicial Master, and the status of the required independent assessor.
6. AHS should assess and report on the impacts on residential program quality and viability of the Private Nonmedical Institutions (“PNMI”) rule change from July 2023.⁷
7. DCF, the Vermont Judiciary, and the Vermont Office of the Defender General should engage Vermont Legal Aid’s new leadership to expand civil legal services in the child welfare and juvenile justice systems, using federal money.
8. The State of Vermont should leverage Title IV-E funds to support high-quality legal representation through specialized training and multidisciplinary models, including peer mentors, social workers, interpreters, and other best practices.

OCYFA RECOMMENDATIONS REGARDING CHILD AND PARENT VOICE IN COURT (SECTION 2.4)

1. The Vermont Judiciary and other stakeholders should develop clear policies supporting the rights of children to attend hearings based on their age and development and promote the use of plain language that all parties can understand across the court system.⁸
2. DCF and the Vermont Judiciary should collaborate on a written explanation of the supports available to children in court, including scheduling hearings that do not conflict with important educational or other events, instituting transportation plans so that youth can attend hearings, the use of therapy animals, and other trauma-informed techniques to promote comfort and due process for children and youth in court.⁹
3. The State of Vermont, Vermont Law and Graduate School, the University of Vermont, the Vermont private bar, and other stakeholders should work together to create a children’s law center that provides independent information, training, and expertise to improve the child welfare and juvenile justice legal systems in Vermont.



OCYFA RECOMMENDATIONS REGARDING VERMONT'S SYSTEMS OF CARE (SECTION 2.5)

1. DCF should re-engage the Columbia Justice Lab to strengthen Raise the Age implementation.
2. DCF should engage Casey Family Programs in targeted case reviews of 5 to 20 youth in the high-end system of care to assess the need for treatment, programs, and services.
3. DCF should study and track data on the long-term outcomes of young people after they leave residential treatment to assess system successes and areas for improvement.
4. The Vermont legislature should enact Senate Bill 6 of 2023 to limit the use of deception in the interrogation of children and young people.¹⁰

OCYFA RECOMMENDATIONS REGARDING DCF'S DATA SYSTEMS (SECTION 2.6)

1. The State of Vermont should fully fund and onboard a Comprehensive Child Welfare Information System ("CCWIS") using the 50% federal match and exploring financing mechanisms that do not demand cuts in DCF's programs or services.
2. In implementing CCWIS, DCF should solicit input and leverage expertise from young people, foster parents, kinship providers, and the Division of Racial Justice Statistics within the Vermont Office of Racial Equity.

All documents cited in this Report are available for download at childadvocate.vermont.gov/2023sources.



Introduction

Introduction to the Office of the Child, Youth, and Family Advocate

The Vermont Office of the Child, Youth, and Family Advocate (“OCYFA” or “the Office”) was created when Vermont Governor Phil Scott signed Act 129 of 2022 after passage by the General Assembly. The mission of the OCYFA is to advance the interests and welfare of Vermont’s children and young people. The Office serves children and youth involved in the child protection and juvenile justice systems, and those receiving services directly from, or through funds provided by, the Vermont Department for Children and Families (“DCF” or “The Department”). The OCYFA officially launched on January 1, 2023, and began operations on February 27, 2023.

The OCYFA engages in both individual and systemic advocacy on behalf of Vermont’s most vulnerable children, youth, and families. It sits within State government but is statutorily nonpartisan and independent. The Advocate and Deputy Advocate operate outside the chain of command of DCF, the Agency of Human Services, and the Governor. Perhaps the Office’s most important power is its access to records, information, and facilities, including private facilities delivering services to children and young people. The Office may communicate privately and visit with any child or youth who is in the custody of DCF.

State statute requires the OCYFA to provide information to children, youth, and families about their rights and responsibilities. The Office is also required to provide systemic information concerning child, youth, and family welfare to the public, the Governor, State agencies, legislators, and others, as necessary. Relatedly, the OCYFA’s enabling act requires DCF to notify the OCYFA of three categories of harm to children in DCF custody: incidents of physical injury to children, instances of restraint or seclusion, and fatalities. These notifications are DCF’s obligation and not dependent upon requests by the Office.

Two public bodies regularly interact with the OCYFA. The Child, Youth, and Family Advisory Council is composed of people impacted by child welfare services provided by DCF and reflects the growing diversity of Vermont’s children and families. The Oversight Commission on Children, Youth, and Families provides guidance, assistance, oversight, and recommendations to the Office.¹¹

Introduction to the Report

The enabling statute for the OCYFA requires that the Office “submit to the General Assembly and the Governor on or before December 1 of each year a report addressing services provided by the Department, including:



- (A) the conditions of placements for Vermont’s children and youths;
- (B) findings related to services for and assistance to children, youths, and families within the child protection and juvenile justice systems;
- (C) recommendations related to improving services for children, youths, and families; and
- (D) data disaggregated by race, ethnicity, gender, geographic location, disability status, and any other categories that the Advocate deems necessary.”¹²

This is the first iteration of that report in the Office’s history. This Report draws on nine months of nonstop engagement with the people and systems that comprise the child welfare and juvenile justice systems in Vermont. From March through October of 2023, we received 75 total referrals involving 153 individuals—primarily children, parents, grandparents, and foster parents. We received more referrals than our two employees could handle, even without a website or virtually any publicity. Among our referrals, we engaged in an estimated 1250 case contacts through phone, text message, video calls, emails, and in-person visits. We testified four times in front of legislative committees, connected with national partners, attended at least 45 interagency meetings, and met with more than 50 community members and organizations. We requested and received thousands of pages of documents from DCF concerning ongoing cases. We advised our constituents about their rights and responsibilities, advocated for more connection between parents and young people in custody, fought for public benefits, and sat with young people in institutional settings. We did a lot of listening.

We barely scratched the surface of the full need. The weight of setting up a new office with a unique and broad mandate drew substantial resources away from what matters to us most: sitting and listening to children, youth, and families. We prioritized visits with youth living in institutional settings, those who had been restrained or secluded, and any child, youth, or family with limited natural supports.

The report is the first of many to follow. In our first year of operation, we have been able to observe much about the child welfare and juvenile justice systems in Vermont, but we also recognize that we have a lot yet to understand. We assume we will make mistakes and that people, especially young people, will let us know when we need to make changes. At bare minimum, we hope this Report will provide a scaffolding for our future work.

We want to thank all of the people who created this Office and who helped with this Report. There are literally hundreds of you. **We want to especially thank the young people and the parents and caregivers who shared their time and stories with us as we work to create new narratives that center and support children and youth. Your courage and strength inspire us every day.**



1 Conditions of Placement for Vermont’s Children and Youth

The OCYFA enabling statute requires the Office to report annually on “conditions of placement for Vermont’s children and youth.”¹³ This reporting activity corresponds to the Office’s obligation to “review complaints concerning the actions of the Department and of any entity that provides services to children, youths, and families through funds provided by the Department; make appropriate referrals; and respond to those complaints,” as well as its obligation to “support children, youths, and families by providing information about service recipients’ rights and responsibilities.”¹⁴

The fundamental mission of the OCYFA is to witness the strength, passion, humor, and pain of Vermont’s most vulnerable children, youth, and families. Listening to the voices of these Vermonters is a prerequisite for authentic policy making. To magnify their experiences requires spending time with them where they are. The core reason for the existence of the OCYFA is to translate the vision of children, youth, and families into policy. To that end, Part 1 of this Report describes the OCYFA’s interactions with our core constituents in the places where they live, play, work, and sleep. Part 2 discusses the policy-level considerations that emerge from these direct interactions. One cannot exist without the other: daily experience and the voices of people have to inform policy work. Conversely, we cannot change outcomes without looking at systems. The “conditions of placement” for Vermont’s children and youth, described in this Section, must be understood in the context of the child welfare and juvenile justice systems as a whole, described throughout this Report and in Section 2.

1.1 Homes of Origin

To work in child welfare is to experience the pull of children to their parents, caregivers, and homes of origin.¹⁵ Most children in Vermont would look at someone side-eyed who asked them where they were “placed.” Children separated from their families face a host of negative outcomes, and child welfare systems have long and painful histories of removing children—especially poor children of color—at alarming rates.¹⁶ Today, federal child welfare law finally recognizes that state involvement should be a last resort.¹⁷

Children, youth, and families already know this. When the OCYFA spoke with our constituents, we heard a strong preference that children remain in their homes of origin. However, the economic, social, and health-related pressures on Vermonters raising children are intense. Vermont’s families are doing the best they can under challenging conditions, but basic needs are increasingly out of reach for Vermonters with children. Families now routinely face housing, economic, and food insecurity, lack access to high quality health care, reproductive and childcare, and barriers to a high-quality education. We discuss these factors in more detail in [Section 2.2](#).



1.2 Children Experiencing Homelessness

No child should experience homelessness. Housing is a vital component of child and youth well-being. A stable home is the foundation for sleep, education, clean clothes, and nutrition. Home is a place for community, play, and laughter. A stable home helps children develop their sense of identity and stability. It is easy for privileged Vermonters to take for granted the level of stability offered by their home. A stable roof over one's head, coupled with the confidence that you and your children can remain there, is calming to human bodies. For a family, a critical element of safety is knowing that they can stick together. The impact of housing shortages and high homelessness rates on children, youth, and families has not been sufficiently discussed or centered by policymakers.

In recent years, the explosion of Vermont's housing and homelessness crises has become local, national, and international news.¹⁸ Vermont has among the lowest housing vacancy rates in the nation.¹⁹ It is very hard to find a house or apartment to rent or buy in Vermont, and the low supply has driven prices beyond the affordability of many Vermonters. As the housing crisis has worsened, there has been a striking—and directly related—increase in homelessness. Between 2020 and 2022, for example, Vermont's homelessness rate increased 151%.²⁰ Between 2007 and 2022, Vermont had the largest percentage increase in homelessness of any state in the nation—221%.²¹ The number of people experiencing homelessness in households with children under 18 increased from 629 in 2019, to 857 in 2022, a 130% rise from pre-pandemic levels.²² Vermont is now second in the nation in homelessness per capita.²³

During the pandemic, Vermont had the lowest percentage of individuals experiencing *unsheltered* homelessness because the State of Vermont used federal money to launch programs that housed people experiencing homelessness in hotels. When federal funds ran out, and under intense pressure, Vermont enacted Act 81 in June of 2023, which continued hotel programs with limitations, and only until April 2024.²⁴ Homelessness and housing instability for children, youth, and families is a critical issue that extends far beyond DCF's hotel programs. But for children, hotel rooms can be the difference between their ability to stay in the custody of their parents and being removed into foster care. As of October 31, 2023, children made up almost 30% of the "June 30 cohort" created by Act 81 and administered by DCF's Economic Services Division ("ESD").²⁵ Of the families in the cohort, an estimated 50% have had some kind of DCF involvement.²⁶

There are also many children and families experiencing homelessness who are not living in hotels. They are doubling up, couch surfing, staying in shelters. This population is harder to see and to support. One way of measuring it is by looking at the number of children experiencing homelessness served by Vermont's Agency of Education through its McKinney-Vento programs. Every school district has a McKinney-Vento liaison, funded primarily through federal grants, and administered by the state Agency of Education. As overall homelessness has risen in Vermont, the



number of young children served by McKinney-Vento programs has risen accordingly, from 226 in 2018 to 398 in 2022.²⁷

The rules of the various public benefit programs that comprise programs for people experiencing homelessness are confusing to everyone—including DCF workers and this Advocate-Lawyer and Deputy Advocate-Social Worker. Depending on various factors, a family staying in a hotel could be covered by General Assistance (Rule 2600—115 pages) which could be either “catastrophic” (2620) or “non-catastrophic” (2610), Emergency Assistance (Rule 2800—68 pages), Act 81 or “June Cohort” (EH110—4 pages), and now Adverse Weather Conditions regulations. Some families were also previously part of the now-expired Transitional Housing program, which gave them the right to recover a deposit under certain conditions. Each of these programs have multiple forms, both paper and digital. DCF websites are not clear on which rules or forms apply to each program.

For parents, the time it takes to meet the demands of these programs is time away from caring for children. While we were in one room assisting a mother filling out applications for subsidized housing, her two young children circled us, seeking their mother’s attention with progressively playful behavior. The mother was creative and engaged, alternating between the children and our computer screen. But if you have cared for young children, you know that there is only so long this situation can last. The cognitive load on families in this situation is heavy, and the burdens can feel imbalanced. As one parent said, “We have to be one hundred percent available for the state, but we can’t get ahold of them.”

Families with children experiencing homelessness are some of the most vulnerable in the state and require complex service coordination. The OCYFA began visiting families with children in hotels in early summer 2023 to speak with children, youth, and families, as well as service providers, representatives of community organizations, and advocates. We handed out information cards such as the one pictured below, sat with families, and witnessed conditions. At that time, prior to the passage of Act 81, the State was not publicly tracking data on children in hotels. It has never, to our knowledge, kept data on the number of families in hotels who also have child welfare involvement, such as an open abuse/neglect (“CHINS”) court case or a child welfare investigation or assessment. In May of 2023, the OCYFA used our statutory authority to request information on children in hotels to understand which hotels and regions housed the highest number of children and families. At that time, there were about 600 children living in hotels as part of state-run programs. Of these, according to our record request, approximately 135 had some kind of open child welfare or juvenile justice involvement.

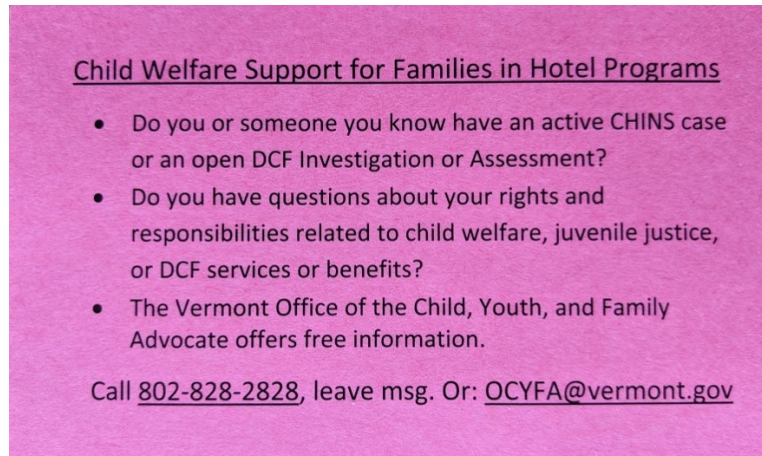


Figure 1: OCYFA Hotel Card

What we experienced was that children, youth, and families in hotels walk a tightrope every day. The situations they face are challenging, but their ability to address their conditions is inhibited. The fear of losing their hotel room, and custody of their children, was palpable. We heard a consistent feeling that if families complained too much about hotel conditions or confusing regulations, they risked being put outside.

OCYFA observed a wide range of conditions in hotels. Some were in relatively good condition. Others lacked basic necessities such as water or heat. Parents and grandparents spoke freely of their concerns of fire safety, flooding in the rooms, sewer problems, water quality, and rodent infestations.

Below is a summary of the concerns we heard:

- For those with child welfare involvement, fear related to DCF’s dual role as both the administrator of benefits (through the Economic Services Division) and of child welfare (through the Family Services Division);
- Lack of stable, affordable housing that would allow people to transition from hotels into a long-term home;
- Insufficient money to purchase the basics, such as food, exacerbated by the added expense of purchasing meals that could be cooked in rooms;
- A feeling that some hotels engaged in discrimination by refusing to house anyone with children, or using a pretense to ask them to leave;
- Hotels pushing out families to free up rooms they could rent at higher prices, such as during “leaf peeper” season;
- Confusion over the various program rules and frustration with the inequity between the rules of long-existing programs and those that serve newly unhoused families;



- Confusion over whether occupants have tenants’ rights, and what they can do if the hotel asks them to leave;
- A perception that DCF is artificially limiting the supply of hotel rooms for unclear reasons;
- For those who had been in the Transitional Housing program, which ended earlier this year, lack of support for recovering their security deposit from hotel owners;²⁸
- Limitations on employment and other basic needs due to criminal backgrounds;
- Fear of retaliation and being asked to leave for asking for even small items to be fixed; and
- Exhaustion with the comingling of trauma.

"I can do my best to make the room feel like a home, but then my kids step outside, and I can't control what they see." — Hotel Resident

One mother, housed in the hotels as part of the June cohort, spoke of being stuck in an inescapable cycle. She needs daycare so she can start work. She needs work so she can qualify for housing programs. She can’t leave to look for work until her child is in daycare. OCFYA helped her apply for DCF’s childcare subsidy, but there is a waiting list at all local childcare providers. She felt powerless and grappled with the possibility of upheaval. “I could get everything in order and then I will get a call that I have to move to another hotel.” If that other hotel is in another region, she will need to start over.

"The motel is our home. It's not a long-term solution, but as a family that is struggling right now, we do our best to make it a home for our kids." – Hotel Resident

A family’s housing status, whether they are living in a hotel or in unsheltered homelessness, should not be a reason for child welfare involvement. But as outlined here and in [Section 2.2 below](#), families experiencing homelessness are at high risk for child removal. For parents who enter hotels having already encountered the child welfare system or whose children were already in foster care, the chances of DCF involvement rise, and so does fear, worry, and previous trauma.

In one hotel, a mother explained that “We don’t have a car. My son is stuck here all day. He is regressing.” Her 7-year-old “likes to run,” so they have blocked an unused doorway with a dresser to limit exits. The son is receiving SSI benefits for autism spectrum disorder, anxiety, and depression. He is on the waitlist of the local Department of Mental Health Designated Agency for supportive services.



In another case, a mom with three kids, two with developmental disabilities, was exited from the hotel programs despite efforts from multiple advocates to keep them housed. She was not offered accommodations for her disabilities, which directly impacted her housing. OCYFA was part of a successful effort to reinstate her status as part of the “June 30 cohort.” After camping for ten days and nights, she was given her room back. However, to date we have been unable to assist her in slowing the legal process that could result in the loss of her parental rights.

DCF is well aware of the issues with its hotel programs. In a September 1, 2023 report to the Vermont legislature, DCF outlined the “program challenges” of the General Assistance housing program, including lack of affordable housing units, substandard conditions in hotels, hotel owners withholding security deposits, barriers to permanent housing, complexity of housing rules, workforce challenges, high call volumes and long wait times, and staff stressors.²⁹ But DCF has not sufficiently articulated or publicized the specific challenges facing children, youth, and families experiencing homelessness. Research demonstrates that children and families with child welfare involvement and housing instability benefit from housing support, experiencing fewer removals, a lower chance of maltreatment, and increased reunification with parents.³⁰ DCF could draw upon these studies to make a stronger case for supporting families in hotels.

DCF’s and AHS hotel teams have worked hard to stand up programs on a tight timeframe.³¹ According to DCF, the number of households served by the Emergency Housing program run by ESD expanded from 250 at the beginning of the pandemic to more than 1800 in 2022—with only limited increases in program resources.³² ESD frontline workers face highly challenging working conditions and have been insufficiently supported by policymakers.³³ The impact on their mental health has been considerable.

In September of 2023, the OCYFA and the Vermont Student Anti-Racism Network produced a webinar on youth homelessness, a recording of which can be found on our website at childadvocate.vermont.gov/2023webinar. Long term, with legislative support, we envision having education advocates within the OCYFA who specialize in education issues, including McKinney-Vento, IEPs and 504s, and the impact of trauma on school discipline. Schools are often the frontline players in child safety, calling in more reports of suspected abuse or neglect than any other group.³⁴ The complex intersections between homelessness, disability, child welfare, and education mean that parents and children who have experienced trauma need support accessing services and upholding their rights.³⁵

OCYFA RECOMMENDATIONS REGARDING CHILDREN EXPERIENCING HOMELESSNESS

1. DCF and Vermont policymakers at every level should prioritize emergency temporary family housing, especially for families with protective services involvement, until they can find permanent housing.



2. DCF should continue to reduce administrative barriers within its programs for children, youth, and families experiencing homelessness by simplifying forms, procedures, and processes.
3. On a permanent, regular basis, DCF should report to the legislature on children experiencing homelessness in all of its programs and services, and should create a targeted plan that houses children, youth, and families in non-congregate spaces, using housing first principles, until they can find permanent housing.³⁶

1.3 The Impact of Disability on Child Welfare Involvement

The impact of disability on child welfare involvement was one of the most significant issues raised by callers requesting OCYFA assistance in 2023, and a frequent discussion topic in our Advisory Council meetings.³⁷ Over 30% of our referrals identified parental or child disability as a major factor impacting the progress towards the resolution of their child welfare cases. As we looked into these requests for assistance, we often saw a lack of accommodations offered to parents and insufficient understanding of parental needs in relation to disability.

The intersection of disability with child welfare is a challenging area no matter how well-equipped an agency is. It takes a lot of time to understand the elements necessary to offer neurodiversity-affirming care, including medical, educational, occupational, legal, and self-advocacy needs. DCF's ability to connect parents and children with neurodiversity-affirming care, treatment, and services is dependent on a labyrinthine service structure administered by a host of agencies external to DCF's Family Services Division ("FSD"), including the Vermont Department of Disabilities, Aging, and Independent Living ("DAIL"), and the Vermont Department of Mental Health ("DMH").³⁸

The most complicated referrals the OCYFA received this year involved youth with developmental or intellectual disabilities who had experienced trauma and were approaching age 18. These young people were well known to practitioners and administrators in multiple settings—DCF, Designated Agencies, UVM Medical Center, the Brattleboro Retreat, and sometimes law enforcement. These youth were disproportionately children of color.³⁹ There are wide gaps in Vermont's system of care that serves youth with developmental or intellectual disabilities who demonstrate even minimal challenging behaviors or aggression. The five most intense DCF "staffings" of 2022 involved children with intellectual or developmental disability ([see Section 1.6](#)):

1. 13 days, youth with developmental delays.
2. 26 days, youth with intellectual disabilities.
3. 12 days, youth with intellectual disabilities (same youth as #2 above).
4. 15 days, youth with intellectual disabilities.



5. 8 days, youth with intellectual disabilities (same youth as #4 above).⁴⁰

For any young person, no matter their behavior, lack of access to education, treatment, peer interactions, and community engagement is traumatizing. For a youth who needs a high level of support as a baseline, “staffing” situations violate their dignity, personhood, and constitutional rights. Vermont’s system of care is inadequate to support these children, whether they are in DCF custody or not. In multiple instances, well-coordinated, highly educated, and caring professionals were unable to provide the supports a young person needed. In more than once case, this led a protective parent to the heartbreaking request that DCF take custody of their own child so the young person could receive treatment. “Our only hope is DCF action,” one parent said.

Multiple families we spoke with this year had a child who had been approved for developmental services, but delays in implementation—sometimes for multiple years—impacted the young person’s stability and their faith that systems could help them. In the most serious instances, hospital emergency departments became de facto places of respite for caregivers, with significantly detrimental impact on the children and families involved, and an inappropriate use of costly resources.⁴¹

One family we worked with has a child who was approved for developmental services under a state waiver program. At a services coordination meeting, the family was told they had to choose between DAIL and DMH services but that they could not have both. In theory, this was systems functioning as they were supposed to, but the providers at the meeting could not explain, in a way that the family could understand, the complicated service provision structure and the differences and overlap between the DAIL and DMH services offered. The acronyms and technical language necessary to articulate even the basic functioning of these systems is excessive and structurally ableist.⁴²

Another parent with disabilities explained the dual experience of working with the state. On one hand, she was struggling with DCF-FSD to maintain custody of her child. On the other, DAIL was providing services and accommodations that contributed to her success in being able to navigate the very systems that impacted her ability to raise her child. “I’ve been trying to fight the state for the longest time. This is traumatizing. The state takes from parents with disabilities on one hand then gives with the other.” The DCF investigator in her case was impressed by her. Yet her ability to parent her children was still in jeopardy.

Research suggests that these referrals describe a wider phenomenon. As the UVM Drivers of Custody Rates study found, foster care rates nationwide are three times higher for children with autism spectrum disorder than neurotypical children. In a study of many variables, neurodiverse development was the only characteristic assessed that was associated with a child’s entry into foster care. One analysis of parents with cognitive impairments found that decision-making by



courts regarding child safety was strongly predicted by the way the agency caseworker perceived the parent’s cooperation in the case. In dealing with the complex systems that govern child protection, parents with cognitive differences face barriers that heighten the risks that their children will be removed into foster care. Foster care entry rates are also predicted by parental depression and anxiety, and low social support for these disabilities.⁴³

It is easy to see children with developmental or intellectual disabilities who have experienced trauma only through their diagnoses, behavior, or bad days. Vermont is a highly educated place with a strong faith in the Western medical model and low diversity. Many of the children struggling with disability and trauma are Black or multiracial, and most of the service providers are white. This structural framework can often overlook the value of peer-led, youth-centered approaches that support youth in positively self-actualizing their identity. Older youth in foster care often run away to return home to parents or relatives, or choose to return home the moment they turn 18.⁴⁴ Behavior is communication, and when people who have experienced trauma call for support, policymakers would do well to listen.

OCYFA RECOMMENDATIONS REGARDING DISABILITY AND CHILD WELFARE

1. DCF-FSD, with assistance from AHS, should draft a policy on providing neurodiversity-affirming services and accommodations for parents and children with disabilities at all levels of the child welfare and juvenile justice systems, with input from appropriate community organizations.
2. DCF-FSD should issue regular reports on accommodations offered to parents and children with disabilities in the child welfare and juvenile justice systems, with particular attention to the intersection of race and disability.
3. DCF should engage an outside entity experienced in disability rights and child welfare to improve its neurodiversity-affirming practices and training.

1.4 Homelike Settings: Kin, Non-Relative Foster Homes, Hidden Foster Care

“Removing children from their communities and placing them with complete strangers, as happened to me so many times, should be only a last resort. A more data-driven approach can help the system select foster care parents who live nearby, speak the same language, have the same faith and affirm all elements of a youth’s identity.” – Sixto Cancel⁴⁵



For most children who cannot live with their parents, placement with kin is the next best thing. Approximately 24% of the referrals to the OCYFA in 2023 were from kinship providers, the vast majority of whom were grandparents of children in DCF custody. Most of these callers expressed concerns over the appropriateness of their grandchildren’s placement and requested OCYFA assistance in navigating the licensure process so their children could live with them. Some also expressed frustration that their *own* previous DCF involvement was posed as a barrier to care for their grandchildren.

Recruitment and retention of foster parents has come up repeatedly in our first year. Since the pandemic, DCF has reached historic lows in the number of licensed foster homes, and especially the number of foster parents with specialized training in medical or mental health complexities. In 2019, according to DCF, there were 1,420 licensed foster homes.⁴⁶ In May of 2023, there were 900.⁴⁷ The OCYFA spoke with multiple foster parents in 2023. Most felt that DCF was doing the best it could, though there were also stories where foster parents helped avoid serious safety issues due to DCF worker error. One foster parent expressed significant anger to the OCYFA about their treatment by DCF, feeling like they were treated like an object.

This summer, DCF acknowledged that foster homes are part of the continuum of placements it uses for children in its care, which includes residential programs, substance use treatment, and the other locations discussed throughout this section.⁴⁸ However, in recent testimony and meetings, the shortage of foster homes and the importance of kin placements to the high-end system of care has been given little airtime.⁴⁹

The result of the shortage of homes is that children are increasingly placed in unlicensed foster homes through a special process DCF uses to temporarily bypass certain licensing regulations, or sometimes through a Conditional Custody Order (“CCO”) from a court. There are undoubtedly important reasons to use informal processes, as they generally result in more kin placements and fewer children in congregate care. But they also result in missed safety concerns, as more than one caller to our Office reported. And they have a budgetary cost, because DCF cannot claim federal reimbursement for children placed in unlicensed homes.

Hidden Foster Care

Like every child protection system in the country, DCF relies on what has become known as “hidden foster care.” The exact extent to which this practice is used in Vermont, and the positive and negative outcomes of the practice, are unknown. This is an area the OCYFA plans to dig into in 2024.⁵⁰

Hidden foster care is “hidden” from courts and policymakers. It occurs when DCF induces parents to transfer physical—but not legal—custody of their children to kinship caregivers. This is commonly accomplished by communicating to the parents that if they do not relinquish custody,



DCF will take legal action to place the children in foster care through a court case, substantiate abuse, and/or take other actions. Nationally, the frequency and the impact of these actions resemble the formal foster care system. But due to federal and state policies, agencies generally do not report these cases. It is not clear whether DCF tracks this practice, or whether it could if it wanted to, given its current data system.⁵¹

There are many good reasons to place children with kin, and informal custody arrangements often serve children’s and families’ interests. But they can also “infringe on parents’ and children’s fundamental right to family integrity with few meaningful due process checks,” as one national expert wrote.⁵² By using hidden foster care, agencies avoid the core elements of the foster care system: legal requirements to make reasonable efforts to reunify parents and children, licensing requirements intended to ensure safety, and foster care maintenance payments to kinship caregivers.

The use of these safety plans can leave parents feeling isolated and scared.⁵³ At least three referrals to the OCYFA involved safety planning during the early stages of DCF involvement. One mother we spoke with did not know where her child was for over five days. In speaking with our Office, the primary issue she wanted to understand, many months later, was where her child was during that time. It appears that law enforcement conducted a welfare check based on a report that the mother was having a mental health crisis and placed the child with extended family on a supposedly “voluntary” basis while DCF investigated. Due to DCF’s obsolete data system, it is very hard to tell exactly what happened.⁵⁴ But it is clear that there was no court involvement, DCF did not have custody of the child, and for at least five days, a mother already facing challenges did not know where her child was, despite her repeated requests for that information. Her case identifies the challenges of balancing safety of the child with the parent’s right to due process.

DCF’s primary job is not to remove children. It is to engage in support and prevention so that children can remain in their homes. When children must be removed, DCF’s goal is to keep them as close to their families as possible and reunify them with their homes of origin if possible. Parents and families need support, even after children are removed, and even once families are reunited.⁵⁵ DCF has been making positive changes in this respect, increasingly encouraging foster families to support birth parents when possible. As child welfare leader Corey Best put it, “there was never a policy that [birth and foster parents] shouldn’t work together ... it was just an unwritten rule.”⁵⁶ The good thing about unwritten rules in this case is that they can be rewritten in an instant.

OCYFA RECOMMENDATIONS REGARDING HOMES OF ORIGIN, KIN, AND HIDDEN FOSTER CARE

1. DCF-FSD should keep data on “hidden foster care,” including the frequency and outcomes of safety plans, and demographic data of kin homes.



2. The State of Vermont should financially support peer mentor models such as Families United in Brattleboro and consider broadening these councils to other regions of the state.
3. DCF should develop a policy and trainings on collaboration between birth and foster parents.

1.5 Transition-Aged Youth Settings

Many young people 18 and over who were formerly in foster care continue to receive support from DCF even after they age out. Vermont's Youth Development Program is charged with ensuring that these young people have access to services and support to facilitate their transition to adulthood. They live in a variety of settings, including with their birth families, former foster families, friends, or on their own in private residences or as part of supportive programs under public-private partnerships.

Transition-aged youth need significant support. They face more barriers than their same-aged peers who did not have DCF involvement. OCYFA met one mom in a hotel who had lived there for six years, first as a child and then as a mother. She had been in DCF custody and was doing everything she could to prevent the same path for her children. She used Youth Development Program funds to buy bunk beds for her children.

Compared to other states, Vermont does an above average job of supporting transition-aged youth, according to the federal Children's Bureau.⁵⁷ Unfortunately, this is partially because nationally, the United States does such a poor job supporting youth who leave care, despite recent improvements. As the Annie E. Casey foundation wrote:

"The transition to adulthood is a significant and challenging developmental phase of life for all young people, but youth aging out of foster care on their own must face this without the support of a stable, loving family. Many also lose access to services and supports offered through the foster care system. Not surprisingly, these youth and young adults are more likely to experience behavioral, mental and physical health issues, housing problems and homelessness, employment and academic difficulties, early parenthood, incarceration and other potentially lifelong adversities. In line with the racial inequities noted earlier, youth of color are more likely to experience these challenges. The trajectories of these young people are not guaranteed, however. They can be positively influenced by policies and practices that ensure these vulnerable youths receive culturally-responsive, trauma-informed transition services and support to navigate the steps to adulthood, achieve stability and reach their full potential."⁵⁸



Transition aged youth face elevated chances of homelessness, high dropout rates, and often become parents themselves at young ages, with higher-than-average chances of child welfare involvement as parents.⁵⁹

As in other sectors, housing is a top concern for transition-aged youth in Vermont, as is access to high quality health care, education, and LGBTQ allyship.⁶⁰ In focus groups conducted by the Children’s Bureau, Vermont transition-aged youth also expressed a need for DCF to listen to them, explain what was going on in their case, and empower them to make their own decisions. “A few youths felt that the state was not helping them prepare for college or helping them understand how to apply for grants or scholarships.”⁶¹

Vermont relies on public-private partnerships like the Youth Development Program and Spectrum Youth and Family Services to support older youth. But the State of Vermont has level-funded these programs for years, relying on the programs to support youth themselves, largely through private donations. In an April 2023 editorial, the directors of the three major providers for transition aged youth sounded the alarm on insufficient funding for these programs, calling for “permanent increased funding from DCF” to prevent “deepening involvement with the child welfare and juvenile justice systems.” If the State does not act, they wrote, “we can fully expect to see child and teenage suicidality, depression, anxiety disorders, and risky sexual behaviors continue [to worsen].”⁶²

In August of 2023, Spectrum launched its Direct Cash Transfer Program, a cutting-edge pilot that provides a total of \$30,000 to ten youth facing homelessness over an 18-month period to support “progress toward securing housing and independence.” Citing evidence that almost 80% of parents in the United States provide financial support to their children aged 18-34, the program aims to support young people who do not have parental financial support. Spectrum will follow the cohort to measure the efficacy of the program and expand it if it shows results.⁶³

OCYFA RECOMMENDATIONS REGARDING TRANSITION-AGED YOUTH

1. The State of Vermont, AHS, and DCF should increase the number of Family Unification Program vouchers so that every youth exiting foster care is awarded one.
2. DCF should support revisions to Vermont statute to enable young people who have aged out of the foster system to access their records.
3. The Vermont legislature should consider expanding the Direct Cash Transfer Program statewide.⁶⁴
4. DCF should partner with Vermont’s institutions of post-secondary education to ensure free tuition and room and board for every young person who ages out of state custody and is admitted to a post-secondary institution in the state.



5. The State of Vermont should expand extended foster care in Vermont through the use of federal funding (see [Section 2.6](#)).

1.6 “Staffings”

Much of DCF’s recent progress in lowering the number of children in foster care (see [Section 2.0](#) below) has been overshadowed by the current crisis in which children and youth are “staffed” by the Department. “Staffing” is a relatively new verb in Vermont’s lexicon. It usually means 24/7 one-on-one (or sometimes two- or three-to-one) staff presence with a youth in state custody who has been deemed not to be safe in the community and for whom there is no safe placement. It is essentially 24 hours a day, 7 days a week segregation. Youth being “staffed” typically have no access to education, treatment, peer interactions, or community engagement. The impact on young people of these non-placements is not well understood or documented.

DCF employees—most often Family Services Workers—are required or volunteer to “staff” children in addition to their regular caseloads. Shifts for these staffings typically last 4 or 8 hours, and often the FSW must drive significant distances to “staff” kids outside of their districts and geographic base.

The extra work involved to maintain this system is compounded by the stress on these workers— not only must they be vigilant to ensure that both they and the children are safe, but they are forced to sit for hours in a situation that they know is unhealthy for the children in their care. Currently DCF is “staffing” youth in at least three settings: The Rest Stop, The Yellow House, and the Horizon Apartment. None of these settings are licensed. DCF does not consider them programs, nor “placements,” but rather “alternative settings.”⁶⁵ One reason for the creation of the “staffing” concept is that previously, youth in these situations often stayed overnight in police stations, district offices, or hotels, leading to concern from legislators, the media, and advocates.

We visited one youth in 2023 in a “staffing” placement. As we discussed in our Joint Justice Oversight Legislative Committee on October 26, 2023, the youth had no educational or therapeutic programming, no contact with peers, and seemed to spend most of the day watching television.

As mentioned above, the five most intense DCF “staffings” of 2022 involved children with intellectual or developmental disability. See [Section 1.3](#) above on youth with disabilities and [Section 2.5](#) below on Vermont’s systems of care.

1.7 Residential, Psychiatric, and Hospital Settings

Residential treatment programs play a central role in housing Vermont’s children, especially children in foster care. As of November 17, 2023, there were 110 youth placed by DCF in residential care: 93 through the foster care or “CHINS” process and 17 who had been adjudicated



delinquent.⁶⁶ This number is likely also made artificially low by the high number of “staffings” DCF has conducted since the onset of the pandemic, as outlined above. Of the 110 youth in care at this point in time, 63 were placed in state and 47 were placed out of state. While reliable data is not available, it is likely that Black youth and other youth of color are disproportionately represented in this cohort.⁶⁷

More than 20% of referrals to our Office concerned children or adolescents that were in unlicensed placements or in placements that could not meet their developmental or mental health treatment needs. OCYFA spoke to one 16-year-old youth who has spent most of her time in foster care in institutions, both in Vermont and out of state. She reported running from placements multiple times. She also spent time incarcerated out of state, and then more than half a year in an inpatient setting because no appropriate placement was available. Of her time in residential care, she said, “You can do whatever you want to do if you do what they need you to do.” She appreciated programs where she could be in the community, work a job, and go to the local school. She spoke favorably of one program in which she thrived—until she was allegedly sexually assaulted by a staff member. “That was my favorite program,” she said, “until that thing happened.”

A 12-year-old in a residential program told us, “I don’t want this treatment. But they said there is nowhere else for me to go.” This left him feeling like *he* was the problem, not the lack of resources. “There are no people who want me,” he said. A third youth is currently incarcerated in another state, awaiting sentencing on charges for an infraction he alleged committed while in residential care in that state. He had languished in the program without meaningful improvement, so he revoked his consent for treatment and DCF brought him back to Vermont. It was before he left, however, that the alleged incident occurred. Upon arriving in Vermont, he was then extradited back to the other state, where he remains incarcerated. Recently, after a disciplinary infraction in the detention center, he was held in solitary confinement for three days. “It’s difficult to be here,” he told us on the phone. “It’s not what I’m used to.”

While DCF is operating below 50% of its “contracted capacity” for residential treatment programs, the State of Vermont has insufficiently invested in high-quality programs within the state that can serve youth with the most intense needs.⁶⁸ This results in children being placed in programs that cannot meet their individualized treatment needs. Programs move youth with less acute needs out of a placement in order to move a youth with higher needs in. As programs become less and less able to offer high-quality individualized services, children languish in institutional settings. Young people need to feel connection, autonomy, and support. The longer they dwindle in misaligned institutional settings, the worse they fare.



Hospital Settings

OCYFA also toured the UVM Medical Center Emergency Department with several doctors, nurses, and social workers. It was a busy floor with open bays, patients in the hallways, and an extensive range of needs from medical and physical health to mental health crisis. As we toured, we made our way to where a 17-year-old youth had been “boarded” for days (children in DCF custody cannot be “placed” in Emergency Departments). There was a curtain dividing their space from another patient’s. Comments, complaints, and pain could be heard. There was a camera facing the hallway. There was no recreation space, no view to the outside, and no access to fresh air.

We spent over an hour meeting with providers at the hospital, who voiced elevated concerns regarding the intense needs of youth in DCF custody and the lack of appropriate settings to which to discharge them, even temporarily. One crucial need was for a place of short-term crisis stabilization—where youth who were stepping down from the Emergency Department could spend a few days in a high quality, licensed, therapeutic setting that offered care individualized to their treatment needs.⁶⁹ According to multiple studies conducted by doctors at UVM, most children seen in hospital emergency departments must wait in the hospital more than 24 hours until they can be discharged to an appropriate placement.⁷⁰

We also toured the Brattleboro Retreat, including the inpatient psychiatric units for children and youth and the Abigail Rockwell Children’s Center (ARCC) residential treatment program. The Retreat was in the process of reorganizing its inpatient units so that all children and youth in psychiatric programs would be housed in one building. The new space provides access to a recreation room in the basement as well as outside spaces. The first two floors for younger children were brightly colored, with communal and sensory spaces, including “pods” where children could voluntarily choose to take time away from their peers. But there is no question that this is a locked facility, the most restrictive setting young children can experience.

ARCC is in a more home-like setting, sitting against a hill and with a fenced yard. This space is considerably less restrictive than the inpatient units. There is a kitchen to prepare food, a long table in a dining room, a living room that looks like a home living room and a sensory room. The individual bedrooms are on the second floor. The doors are alarmed but not locked. The alarms will alert staff if a child is leaving their room. The residents receive education in another building on campus. Children and youth we spoke to described their likes and dislikes of residential programs generally, but there was a consistent message that they lacked autonomy. When we asked a 12-year-old what their next possible placements might be, they said “I don’t know. I have no power over that.”



1.8 Raise the Age Placements

Seall, Inc. completed significant renovations at 208 Depot St. to create the “New Beginnings” program for Raise the Age placements. The decision was made years ago, during Raise the Age implementation planning, that these would not be licensed placements given their hybrid custody status. 208 Depot is divided into two apartments for Raise the Age young people 18 and 19 years old. The two apartments can hold a total of 3 residents, currently housing 1 young person. The program has had a total of 5 residents with 4 completing the program successfully. Seall staff indicated that since its inception, the program has operated well below capacity.

OCYFA visited with one youth currently in the New Beginnings program. He seemed to like being able to live independently, and reported that his current placement was a big improvement over previous programs he attended. His aspirations were to get a job and a car. When asked what kind of car he wanted, he said with a sly smile, “I don’t know... Something quick.” His living quarters were basic, and he appeared to enjoy being able to live virtually independently.

1.9 Flooding Displacements

The catastrophic flooding in the summer of 2023 had a tremendous impact on an already stressed system of care. One entire residential treatment program was displaced due to flooding in Ludlow—another program temporarily housed all of the youth from that program. At least eight foster homes throughout the state suffered damage that required temporary relocation of the entire family. In most instances, foster children moved with their foster families to temporary or relative housing. The DCF Family Services Division worked hard to ensure the safety of all the children in their custody. The flooding also increased the need for catastrophic emergency housing through DCF’s Economic Services Division. At hotels, OCYFA spoke with residents confused and frustrated by the different program categories—“June 30 cohort,” 28-day eligibility GA, 84-day catastrophic eligibility, “flooding victims”—and the different treatment each cohort received. We anecdotally heard from families with children that the capacity of hotels was diminished due to those being housed in hotels as a result of summer flooding, as described above in [Section 1.2](#).

1.10 Conditions of Placements Conclusion

As described in the section above, young people in Vermont live in a wide range of settings. OCYFA will continue to visit these placements on a regular basis in 2024, and we look forward to updating our findings and recommendations in next year’s report.



2 The State of Vermont’s Child Protection and Juvenile Justice Systems: Findings and Recommendations

“There is a fine line between parental neglect of children and societal neglect of families.” — Teresa Rafael, executive director, Children’s Trust Fund Alliance⁷¹

Summary of Vermont Children in Care

In recent years, there have usually been about 2000 children in Vermont with high-level DCF involvement at any given time. This number is comprised of about 1,000 children in the legal custody of the Department (i.e. “foster care”), with the remainder in two additional categories: youth under the oversight of a court but in the conditional custody of kin or fictive kin (i.e. “on a CCO”), and families receiving ongoing services due to “a high to very high-risk of future maltreatment.”⁷²

According to DCF, as of October 1, 2023, there were 985 children in DCF custody, 467 in the conditional custody of a parent, relative, or person known to the family, and 150 families receiving ongoing services, for an estimated total of around 1600 children and families with high-level DCF involvement. This is the lowest total for this metric in almost a decade. The number of children in foster care is under 1,000 for the first time since 2015, when it reached an all-time high of over 1300 following the tragic deaths of Dezirae Sheldon and Peighton Geraw.

In recent months, DCF has also reduced the number of children in residential care. As of October 1, 2023, there were 83 youth in DCF custody placed in residential level care, 8.4% of the total custody population of 985. This is also the lowest these numbers have been in over a decade. In 2020 there were 168 youth in residential level care, 13% of the total custody population. A decade ago, there were over 200 youth in residential level care.

But these numbers tell only part of the story. DCF is currently “staffing” children—putting them in temporary unlicensed settings without access to basic services—at an alarmingly high rate. There were a total of 63 “staffings” in 2022. In 2023, personnel issues have meant that DCF has stopped counting. The number of DCF employees used to “staff” children has been rapidly expanding: from 151 in 2020, to 187 in 2021, to 485 in 2022. In July of 2023, according to recent testimony, DCF had a staffing crisis that resulted in the deployment of “every single on-call worker in the state.” DCF recently removed a full-time employee from its child welfare reporting hotline call center and sent that person to DCF’s central office. This employee’s full-time job is now to



coordinate staffings, which are emergency measures with no therapeutic basis, designed only to maintain basic physical safety, but without access to education, peer contact, or therapeutic treatment.⁷³

Despite recent progress, Vermont also continues to remove children from their homes and into foster care at concerning high rates. Vermont brings about 5 children ages 0 to 17 into foster care per 1,000 per year. The average for the United States is 3 children per 1,000. Only 10 states remove more children per capita. Vermont is the only state from New England—indeed, the only state on the east coast—among the 13 states with the highest removal rates. Vermont’s foster care entry numbers are most similar to those of Missouri, North Dakota, Kentucky, Arizona, Indiana, Kansas, South Dakota, and Tennessee.⁷⁴

DCF removes Black and multiracial children at an even higher rate. Black and biracial children are taken into state custody at rates 120% more than their presence in Vermont’s population would suggest.⁷⁵ They are also disproportionately involved in Vermont’s juvenile justice system.⁷⁶ Nationally, the more non-white and low-income children there are on a protective services worker’s caseload, the higher the state’s foster care entry rate. This is true even in Vermont, where white children make up close to 90% of the population.⁷⁷ Between 2010 and 2020, 99.7% of the population growth in Vermont’s most populous county—11,746 of the additional 11,778 people—has been among people who are Black, Hispanic, Asian, American Indian, and/or Native Hawaiian.⁷⁸ Among children, Vermont had the second largest rate of population growth of children of color of any state in the nation, according to census figures.⁷⁹ And all of these numbers are blurred by the effects of DCF’s antiquated data system, discussed throughout this Report, and in [Section 2.6](#) below, which obscures the true picture of inequity in Vermont’s child welfare system.⁸⁰

2.1 The Cost of Child Protection

In 2015, in response to the tragic deaths of two young children who had contact with the Vermont Department for Children and Families, the Vermont legislature enacted major reforms to Vermont’s mandatory reporting statute.⁸¹ The goals of Act 60 of 2015 were to prevent abuse and neglect by investing in “proven strategies to support and strengthen families” and to “address the increasing burden of drug abuse and other factors that are ripping families apart,” among other goals. “The General Assembly believes,” the Act explicitly said, that the child protection system must be “comprehensively and properly funded.”⁸²

Act 60 lowered the mandatory reporting threshold in Vermont from “reasonable cause” to “reasonable suspicion,” put more onus on mandatory reporters to personally file reports within 24 hours of receiving information, modified the definitions of “risk of harm” and “sexual abuse,” and added a definition for “serious physical injury.” It encouraged more information sharing



among child welfare professionals, instituted post-adoption agreements, clarified some aspects of the relationship between DCF and law enforcement, enhanced criminal penalties for serious offenses against children, and established two key policy bodies to study Vermont’s child welfare systems.⁸³

Almost nine years later, the success of Act 60 has been mixed. On one hand, there have been few fatalities of children in Vermont since the Act’s passage.⁸⁴ We now have multiple important studies of Vermont’s child protection systems and a set of smart policy recommendations that, if implemented, would achieve the goals Act 60 set out.⁸⁵ We can add the report you are reading right now to that list, and indeed the very existence of the OCYFA is another legacy of Act 60. But these successes have come at a high cost. Vermont now ranks first in the nation in the number of calls to its child protection hotline, and first in calls screened out because they did not warrant further inquiry.⁸⁶ Despite Act 60’s aspirations, Vermont has done the opposite of comprehensively and properly funding the child protection system. We have also comprehensively failed to implement “evidence-informed models of serving families that prioritize child safety and prevention of child abuse and neglect through early interventions with high-risk families that develop family strengths and reduce the impact of adverse childhood experiences,” as the Act called for.

Act 60 was an attempt by legislators, politicians, and the public to process the awful deaths of two children. It was an answer to calls for action. But it did not do nearly enough to support the children, youth, or families at the center of the crises the Act described. It did not lessen the number of children removed from their parents—in fact, it increased them.⁸⁷ It did not improve Vermont’s residential care system. And perhaps most importantly, it did not prepare Vermont for changes in federal law in 2018 that opened the door to the evidence-based prevention services the Act described.

According to the latest data, Vermont has the highest rate of reports of suspected abuse or neglect of any state in the nation. Vermont’s rate of referral per 1,000 children was 137.0 for 2021, far higher than any other state.⁸⁸ Only four states had a rate above 100. By contrast, New Hampshire’s rate was half as high at 67.9 calls per 1,000, Massachusetts’ was 54.6, and Maine’s was 98.3. According to the most recent published data, DCF screened out 84.5% of the calls it received—13,539 out of 16,029—as inappropriate for further action. This means that for every six calls fielded by Vermont’s Centralized Intake and Emergency Services Department (“CIES”), five do not warrant a further look. This high ratio of noise to signal means that DCF CIES workers must spend most of their time dealing with information that does *not* protect child safety—that takes them *away* from the calls with the most serious safety concerns. DCF’s ancient data system makes this problem exponentially worse. The set of screens that DCF workers must click through to document a call that they would like to screen out means that irrelevant calls have



disproportionate impact. If one wonders how DCF could fail to intervene in serious child safety matters, the amount of time DCF workers spend on non-critical duties is a key factor.

The UVM Drivers of Custody report, another legacy of Act 60, discussed this phenomenon. “It is possible,” it said, “that the expanded mandatory reporting may add to a culture of bias and surveillance disproportionately impacting families experiencing poverty and/or identifying as BIPOC.”⁸⁹ National research backs up this idea. One study found that strict mandatory reporting policies were not correlated with increased identification of children at risk of physical abuse, and in fact were *less* likely to result in abuse substantiations.⁹⁰ “The goal of mandatory reporting,” the author wrote, “is to identify children at risk, and intervene to prevent further harm. It is not to create more reports.”⁹¹ Excessive reporting makes families feel surveilled. As one caller to our Office said, “Once you are known to DCF, they think of you like that forever.”

Vermont’s high rate of foster care entry is directly related to its culture of mandatory reporting. DCF brings about 5 children ages 0 to 17 into foster care per 1,000 per year and it is consistently among the states who remove the most children from their families and into foster care.⁹² DCF removes Black and multiracial children at an even higher rate, taking them into custody at rates 120% more than their presence in Vermont’s population would suggest.⁹³

OCYFA RECOMMENDATIONS REGARDING MANDATORY REPORTING

1. The Vermont legislature should consider revisions to its mandatory reporting statutes.
2. DCF and the Vermont Child Welfare Training Partnership should consult with community and policy experts as it revises its mandatory reporting trainings.

2.2 Economic Supports Are Crucial to Keeping Children Safely at Home

“The stress of being unable to meet the basic physiological needs of food and shelter, often due to poverty, impacts the ability of parents and caregivers to create an environment where children can grow and learn” – The State of Vermont’s Children 2022, Building Bright Futures⁹⁴

The impact of stress on child development is well known. Often, our policy focus centers on trauma caused by parental maltreatment. But policy and political choices also affect child development. As Building Bright Futures wrote in its annual report, “The stress of being unable to meet the basic physiological needs of food and shelter, often due to poverty, impacts the ability of parents and caregivers to create an environment where children can grow and learn. Food insecurity among children harms cognitive development and contributes to social and behavioral problems in school....Housing instability can permanently affect brain development in children,



and can impact physical health. Meeting these basic needs for all families is critical to ensuring that children have the opportunity to thrive.”⁹⁵

Child welfare involvement is almost entirely a function of poverty.⁹⁶ Nationwide, 85% of families investigated by child protective services have incomes below 200% of the federal poverty line⁹⁷ In Vermont, about 30% of children under 12 live in households with incomes below 185% of the federal poverty level—about \$52,000 a year for a family of four. A basic living wage, which excludes amenities like meals in restaurants and a savings account for emergency expenses, is around \$108,000 a year for a family of four in Vermont.⁹⁸ Economic hardship increases the risk of involvement with the child protection system. There are several key factors that are predictors of substantiated child neglect, including difficulty finding childcare, the loss of Reach Up benefits, and high unemployment rates, housing instability, and evictions.⁹⁹ Living in a district with higher poverty rates for children under 5 years old is associated with a greater risk of entering custody.¹⁰⁰

A body of high-quality research now demonstrates that one of the best ways to support parents and families at risk for child welfare involvement is by offering them comprehensive financial supports that include access to quality health care, education, and housing. When parents and caregivers face financial crisis, they struggle to focus on interventions like parenting classes or substance use treatment.¹⁰¹ If families receive economic support, the risk that a child will come into foster care declines.¹⁰² Each additional \$1,000 that Vermont spends on public benefit programs annually per person living in poverty could bring a reduction in child maltreatment reports, substantiated child maltreatment, foster care placements, and child fatalities due to maltreatment.¹⁰³ Cash benefits that go directly to parents and caregivers show *immediate* declines in state-level child maltreatment reports—2.3% in the week of payment and 7.7% in the four weeks after payment, according to one study.¹⁰⁴ As the UVM Drivers of Custody report found, “Although money per child spent on foster care appears negatively associated with reunification, money spent on preventative services or cash assistance is associated with positive child welfare outcomes.”¹⁰⁵

In the last few years, Vermont has made positive steps to enhance economic supports to low-income families, making sweeping reforms to childcare subsidies, enhancing the state child tax credit, and expanding afterschool and summer programming.¹⁰⁶ But there are clear choices that Vermont makes about which children deserve the most support and which deserve less. Initiatives that benefit the poorest Vermonters are not as popular as those that also target the middle and upper middle classes. The representative image of the poor Vermonter is commonly a single, transient, adult male. But if we center the 60,000 children in Vermont under the age of 10, the importance of economic supports becomes more urgent.¹⁰⁷

Perhaps the most important economic support for children and families in Vermont is Reach Up, Vermont’s TANF program.¹⁰⁸ Reach Up benefits the poorest Vermonters with children. It supports



housing and transportation and helps families set and achieve goals.¹⁰⁹ But unlike other benefit programs such as childcare assistance, Reach Up is not tied to the federal poverty level, and therefore rapidly becomes insufficient if lawmakers do not raise its benefits year after year. The current Reach Up benefit for a Vermont family of four is capped at \$1,000 per month, or \$12,000 per year—less than one quarter of minimum wage.¹¹⁰

There are advantages and disadvantages to the fact that DCF administers both public benefits and child welfare. Co-location of economic services, child welfare, and early childhood services under one Department is considered a national best practice.¹¹¹ DCF district directors have access to “preservation flexible funds” to prevent removal.¹¹² But there can also be tension between economic services and child welfare supports. One parent told us, “I don’t want to ask for help because they [DCF] are trying to steal my kid.”

At a much broader level, our legacies of structural racism and systemic bias towards poor families still inform our public policy. In the 1960s, an amendment to the Social Security Act created the uncapped entitlement we still rely on today to support states who take children into foster care, while providing no similar funding stream to support intact families—at least until 2018. The Family First Prevention Services Act, which we discuss throughout this Report and in [Section 2.3](#) below, initiated long-overdue federal support for prevention. But it but does not include economic supports among its reimbursement provisions.¹¹³

Even the national discussion about Adverse Childhood Experiences (“ACES”) is informed by cultural assumptions. ACES is a popular way to discuss trauma, but the ACES concept was developed during a 1990s study of a California population that was mostly white, middle class, college-educated, privately insured, and unlikely to experience child welfare involvement.¹¹⁴ State removal of children into foster care is not one of the ACES categories, despite the elevated trauma all children experience through removal. The ACES “score” concept measures harm by caregivers but ignores the effect of governmental action on child trauma.

Vermont’s size and already-integrated economic supports system present a real opportunity to innovate in the area of economic supports. The OCYFA looks forward to bipartisan partnerships that will support children “Cradle to Career” and make Vermont, in our governor’s words, “the best possible place for children and families to live.”¹¹⁵

OCYFA RECOMMENDATIONS REGARDING ECONOMIC SUPPORTS TO CHILDREN, YOUTH, AND FAMILIES

1. The State of Vermont should consider creative ways of improving the financing of child welfare, including fully funding Reach Up, bolstering the Vermont child tax credit, and instituting baby bonds in Vermont.¹¹⁶



2. The State of Vermont should analyze its system of economic supports through an equity lens, uplifting the voices of impacted people, prioritizing concrete needs, codesigning supports with people with lived experience of the system, and focusing on strengths.¹¹⁷

2.3 Vermont Should Prioritize Prevention Services Through Title IV-E and FFPSA

In 2018, a bipartisan United States Congress enacted the groundbreaking Family First Prevention Services Act (“FFPSA”).¹¹⁸ FFPSA amended Title IV-E of the Social Security Act, long the central structure for federal payments to states for child welfare. For the first time, significant federal dollars could flow to states to support *prevention* efforts on behalf of children, youth, and families. Prior to the implementation of FFPSA, federal incentives pushed states to bring children into foster care rather than create services in the community that would keep them with their families.

The reasoning for this new policy was obvious, even if it was centuries overdue: why spend money on removing children from their homes when it is more cost effective—not to mention the right thing to do—to keep children in their homes of origin? The purpose of FFPSA, according to the law itself, was “to provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.”¹¹⁹ Vermont’s Department for Children and Families called FFPSA, the “most significant federal child welfare law in the last 20 years.”¹²⁰

FFPSA was not perfect. It opened up a new world to states to develop innovative prevention programs, but it also came with significant administrative rules. For example, it required a 50% state match in most of the areas it funded. It set high standards for the prevention services it would fund, creating a “Clearinghouse” of high-quality evidence-based services. It required states to use data to demonstrate that the funds they were drawing down truly adhered to the law’s mandates. But for the first time, states had a new world opened in which they could create innovative programs supportive of children, youth, and families using federal money. FFPSA marked not just a change in child welfare financing, but a true opportunity for child welfare agencies to change their relationship to the communities they served.

FFPSA allowed states to fund the following types of programs using Title IV-E money:

- Services to address mental health challenges;
- Substance use disorder prevention and treatment programs;
- In-home parent skill-based programs; and
- Legal services to support children, youth, and families, including kin navigator programs, peer mentors, social workers, and guardian ad litem training.



Vermont has an approved FFPSA plan that contains two approved evidence-based practices: parent–child interaction therapy and motivational interviewing. That is a good start, but it has to be built upon. As the UVM Drivers of Custody report indicates, Vermont would benefit from evidence-based practices in “less stigmatized settings,” such as schools and parent–child centers, as well as those that address domestic violence and family-centered substance use treatment.¹²¹ To that list, the OCYFA would add trusted community spaces that center people with lived experience, non-white Vermonters, and neurodiversity-affirming practices, such as The Root Social Justice Center in Brattleboro.

Using FFPSA, Vermont could replace a significant amount of state General Fund dollars with federal funds for programs that are *already* operating. It could also help Vermont create new services and programs without significantly raising expenditures. The UVM Drivers of Custody report contains a set of recommendations for FFPSA funding in Vermont.¹²² Because it has now been more than five years since the passage of FFPSA, many national and regional service providers have already geared their services towards its requirements. Vermont should look to national models, as well as to its neighboring states, to see which high quality providers could be engaged in Vermont.

DCF’s obsolete data system, discussed in more detail in [Section 2.6](#), is a primary reason that Vermont’s FFPSA plan is so limited because DCF lacks the data tools necessary to implement FFPSA. Below we outline three areas covered by FFPSA that we recommend DCF implement: kin licensing reform, residential treatment improvements, and legal support.

Stronger IV-E and FFPSA Implementation Could Keep Children with Kin

A commitment to broadening the programs that Vermont funds with Title IV-E dollars would bring more equity to Vermont’s child welfare system.¹²³ The Center for the Study of Social Policy’s publication “Ten Ways to Advance Equity and Promote Well-Being through the Family First Prevention Services Act (FFPSA),” recommends a process of community engagement so that programs are targeted towards initiatives communities are truly asking for. OCYFA recommends that DCF reengage stakeholders specifically around the subject of prevention. As the CSSP writes, “a shared investment [will] lead to shared accountability.”¹²⁴ Below are a few examples of ways in which FFPSA programs can lead to more equity, according to the CSSP:

- Foster parent recruitment and retention strategies particularly for youth who are over-represented in congregate care;
- Services that are responsive to families who have experienced domestic violence;
- A continuum of supports and services for pregnant and parenting youth in foster care that are informed by research on optimal development.¹²⁵



In addition to the opportunity to expand prevention services, states will soon have more flexibility to relax foster care licensing regulations for kin. In February of 2023, the federal Children’s Bureau issued proposed rules to revise the definition of “foster family home” states must follow to receive Title IV-E reimbursement funds. The new definition would allow state agencies, such as Vermont’s DCF, to adopt different foster family home licensing standards for kin and fictive kin than for other kinds of foster homes (i.e. “non-relative” homes).¹²⁶ The new rule would also require agencies like DCF to review the dollar amount of monthly payments that go to foster parents to support children. Health and Human Services Secretary Xavier Becerra himself touted the importance of this change, saying “we encourage agencies to place as few burdens as possible on kin, consistent with the safety and well-being of the child.”¹²⁷

In recent years, according to federal data, states have steadily increased their reliance on kinship caregivers, from 24% in 2002 to 35% in the most recent fiscal year. Kinship caregivers are “older, more likely to be single, more likely to be African American, more likely to live in poverty,” the draft rules states. Nationwide, because of a lack of flexibility in licensing kin, payments to kin caregivers have not been equitable. “We’ve done focus groups nationally with kinship families, and we have found that typically, white families are licensed and families of color are not,” the director of kinship policy for the American Bar Association’s Center on Children and the Law wrote. “These states hold families of color and families in poverty to standards that do not equate to safety.” One commentator called the new rule “the most important advance the federal government has made in kinship care policy in the last 40 years.”¹²⁸

Based on our conversations with families this year, we believe that efforts by DCF to keep children with kin will not go unnoticed in communities. While DCF’s reputation has suffered in recent years, some parents still see DCF as supportive.¹²⁹ There is perhaps no more effective way to improve DCF’s standing than for parents to see DCF’s genuine work to keep families intact. Even if DCF has to remove a child to foster care, it could do more to support foster parents, whether kin or not, to connect to and support birth parents. Using FFPSA, DCF could move beyond dichotomies that suggest that a child either stays in the home or is removed into custody with scant support to the home of origin. Parents who are struggling need help, whether their children are living with them or not. Prevention services, kin support, and peer navigators ensure that DCF does not overrely on removal and can focus on its mission: supporting children, youth, and families. As one birth parent said, “A strong relationship between a birth parent and foster parent can make a huge difference for a child and their birth family. I think it is awesome to know that your child is safe. I especially appreciate that the foster parent wants to know what practices I use to care for my child. I also have some comfort knowing that the foster parent cares about me. In this way, I can move forward with my own healing and also work on a plan for a better life for me and my family.”¹³⁰



FFPSA Could Improve Vermont's Residential Treatment System

One of the most significant changes FFPSA brought was in creating a designation known as Qualified Residential Treatment Programs (“QRTP”). In the years leading up to the passage of FFPSA, most states had increased their use of congregate care. Children were sometimes sent there not because the programs could provide the treatment that the children needed, but because the program had an open “bed.” This misalignment resulted in the use of congregate care as a remedy for the shortage of foster homes rather than its intended role to provide targeted, short-term, and holistic treatment for only the children who need it. Nationally, in 2019 more than 30% of youth in foster care ages 13 to 18 were living in group homes or institutional placements, with numbers even higher for Black youth.¹³¹

The requirements for QRTPs were stringent by design. The statutory logic of FFPSA was to push states to focus on creating prevention programs and utilize family-like settings rather than congregate care. To receive federal funding for group homes, states must ensure that those settings were “time-limited, trauma-informed, judicially reviewed, and focused on engaging the child’s family during and after treatment, with the goal to prepare the child for a swift return to family and community life.”¹³² The main mechanism FFPSA used to accomplish this goal was to limit a state’s ability to draw down federal funds for any child who stayed longer than 14 days in residential care.

Once FFPSA was fully in effect in Vermont, on October 1, 2021, the following requirements had to be met for Vermont to draw down federal matching dollars to pay for a child in residential care beyond 14 days:¹³³

- The residential treatment program (“RTP”) must be accredited;
- The RTP must provide access to 24/7 nursing care;
- The RTP must ensure that programming is trauma-informed and family inclusive;
- The RTP must provide up to 6 months of aftercare for children leaving the program;
- Children placed in QRTP must have an independent clinical evaluation supporting the placement within 30 days; and
- A judicial review of the clinical evaluation must take place within 60 days.¹³⁴

Although DCF has said that it is committed to “requiring all programs that we utilize for our children in care be QRTP accredited, unless they are serving a specialized population as defined in statute,” Vermont currently has no QRTPs.¹³⁵

Partly because of the lack of capabilities of its current data management system, it has not brought a single QRTP online.¹³⁶ This means that children do not have access to high quality residential care as defined by FFPSA. It also means that when DCF places children in the



residential care settings that Vermont *does* have, the state must pay out of its own pocket after 14 days. Current programs are either funded through direct contracts or a per diem rate determined by Vermont’s Private Nonmedical Institution (“PNMI”) rules implemented by the Division of Rate Setting within the Department of Vermont Health Access. Knowing that this change was coming, DCF began adding a line item to its budget to make up for the revenue lost from youth staying in residential care beyond 14 days. That number was over a million dollars in Fiscal Year 2024 (July 1, 2023—June 30, 2024). Unless Vermont addresses its lack of QRTPs, this line item will only grow. We discuss this funding structure in more detail in [Section 2.6](#)

Problems in Vermont’s residential system of care are not new. In 2015, the Agency of Human Services began its “Turn the Curve” initiative, “to investigate the issue of increasing placements of children and youth in residential programs and develop strategies for reversing this trend.”¹³⁷ A 2020 analysis of the residential system of care in Vermont found that Vermont’s system is siloed and confusing, inconsistent across geographic regions, and beset by workforce shortages.¹³⁸ The 2020 report included Vermont-specific recommendations to address these problems.¹³⁹ QRTPs and the 2020 report are rarely discussed as part of the “high-end system of care,” but they are integral to addressing our shortage of appropriate treatment settings for young people, whether those young people are involved in the foster care system, the juvenile justice system, or both.

FFPSA Could Broaden Legal Support for Children, Youth, and Families

FFPSA implementation could support children, youth, and families with their legal challenges, both within the CHINS and delinquency court systems and now also for a range of related civil matters, such as housing, public benefits, and relief from abuse. Unfortunately, Vermont has yet to draw down *any* federal dollars for FFPSA legal supports.

In 2018, the U.S. Department of Health and Human Services’ Children’s Bureau announced that for the first time, matching federal dollars could be used to support the cost of attorneys representing eligible children and their parents in child welfare proceedings. Prior to this change, federal money could be used to support only the legal costs of the state’s child welfare agency, not the costs of the children’s or parents’ attorneys. These rules were later expanded to allow for “multidisciplinary representation,” which includes social work support, peer navigators, and investigators, experts, and interpreters.¹⁴⁰ The costs of training, including for the non-attorney guardians ad litem we have in Vermont, is also eligible for reimbursement, at an elevated, 75% match.¹⁴¹

The notion of using federal money to pay lawyers in the child welfare system when children and families have significant needs may seem tone deaf. But legal supports and family needs are directly linked, especially when it comes to interdisciplinary support from peers. Peer mentors are usually other parents or youth with lived experience in the child welfare system who provide



practical advice, empathy, and straight talk to parents and youth with current system involvement. High quality legal supports have been demonstrated to prevent the need for removal, expedite timelines to permanency, promote engagement, and increase rates of kinship placement.¹⁴²

The Administration for Children and Families (“ACF”) continues to expand the legal supports states can fund with federal dollars. On September 28, 2023, the ACF announced its intent to expand the array of legal services states could claim for reimbursement under Title IV-E to include civil legal services for families in matters of housing, education, public benefits, health care, relief from abuse, successful transition of older youth, and paternity.¹⁴³ These civil legal proceedings may occur concurrently to foster care proceedings or before a removal petition has been filed. The federal money could pay for attorneys from non-profits like Vermont Legal Aid, or for contracted private attorneys. Given the importance of economic supports discussed in [Section 2.2](#), the effects of these new rules could be significant in Vermont if DCF rises to the occasion.

OCYFA RECOMMENDATIONS REGARDING FFPSA AND TITLE IV-E

1. DCF should revise kin licensing rules to lower barriers to kin foster home licensing, consistent with new federal regulations.
2. DCF should track and publish demographic data on foster homes, including data aggregated by race, sexual identity, and disability status.
3. DCF should maximize Title IV-E funding for prevention-focused professional development, education, and training, to include childcare providers, mental health clinicians, mentors, birth parents, foster/kin caregivers, DCF workers, treatment providers, and school personnel.¹⁴⁴
4. AHS should adopt system-wide recommendations from the 2020 “Analysis of Children’s Residential System of Care” report.¹⁴⁵
5. DCF should fully implement FFPSA and regularly report to the legislature on the number of in-state QRTPs, the hiring status of a QRTP Judicial Master, and the status of the required independent assessor.
6. AHS should assess and report on the impacts on residential program quality and viability of the Private Nonmedical Institutions (“PNMI”) rule change from July 2023.¹⁴⁶
7. DCF, the Vermont Judiciary, and the Vermont Office of the Defender General should engage Vermont Legal Aid’s new leadership to expand civil legal services in the child welfare and juvenile justice systems, using federal money.
8. The State of Vermont should leverage Title IV-E funds to support high-quality legal representation through specialized training and multidisciplinary models, including peer mentors, social workers, interpreters, and other best practices.



2.4 Youth and Family Voice in Court Matters

“High-quality legal representation for parents, children, and agencies in the child welfare system at all stages of case processing is critical for a well-functioning child welfare system... Many of the recommendations within this report do not require additional funding but do require an openness to innovation and change” – National Center for State Courts, Study of CHINS Case Processing in Vermont, 2021¹⁴⁷

Child voice in Vermont’s court systems was one of the most prominent themes of calls to the OCYFA in 2023. Children and their advocates requested assistance primarily in two areas: “juvenile docket” cases (generally abuse/neglect and delinquency) and “domestic docket” cases (generally custody, visitation, and relief from abuse).¹⁴⁸ Both of these case types are heard in the Family Division of the Vermont Superior Court.¹⁴⁹

The Family Division is one of the busiest divisions of the of the Vermont Judiciary. It is responsible for approximately 1000 cases involving the alleged abuse and neglect of children, 750 juvenile delinquency cases, 335 cases in which the state seeks to terminate parental rights, 200 cases involving children who are alleged to be “beyond the control of their parents” or truant, and 3,200 petitions for relief from domestic abuse, according to a 2022 report by the judiciary.¹⁵⁰

From a workload perspective, abuse/neglect or “CHINS” cases are, according to the Supreme Court of Vermont, “one of the most labor-intensive case types, not only in the Family Division, but in any division of the Superior Court.”¹⁵¹ For comparison, a judge spends an average of 13 minutes hearing a small claims case in the Civil Division, and court staff spend about 136 minutes processing that kind of case. For a felony in the Criminal Division, a judge spends about 130 minutes and court staff 352 minutes.¹⁵² By contrast, in CHINS cases, a judge spends an average of 332 minutes and court staff spend 1,027 minutes.¹⁵³

There are good reasons that these cases are so time consuming. Child welfare and juvenile justice cases involve significant amounts of what the courts call “post-judgment activity”—reviews and hearings after a ruling on the allegations in the initial petition.¹⁵⁴ Frequent hearings provide due process and oversight of children in the custody of the state, and they give parents a chance to reunify with their children. Federal law also requires that courts establish “permanency” for a child—usually either reunification or adoption—within certain timelines so that children do not linger in the foster care system.



But frequent hearings require significant resources. In CHINS cases in Vermont, each parent who cannot afford an attorney is appointed one. The child is also appointed a lawyer as well as an unpaid, non-lawyer guardian ad litem (“GAL”). It is important for the health of the system that all of these parties be present for each hearing and have an opportunity to be heard. CHINS cases are unique in that they routinely feature four or more lawyers on opposing sides—State’s Attorney, child’s attorney, and one attorney for each parent involved. Due process is undoubtedly important. But with such a busy courtroom—and high stakes for parents and children—cases can stagnate in the system.¹⁵⁵ One study found that in Vermont, nearly half of termination of parental rights hearings are cancelled.¹⁵⁶ Because Vermont takes a high number of children into custody, each child *not* taken into foster care relieves occupational and budgetary pressures on the judiciary, and the budget of the Defender General.¹⁵⁷

In the 2018 Special Session, the Vermont legislature appropriated \$7 million from the Tobacco Litigation Settlement Fund to the Vermont Judiciary to “make strategic investments to transform the adjudication of CHINS cases in Vermont.”¹⁵⁸ The legislation created the CHINS Reform Workgroup and, among other initiatives, allocated money to the National Center for State Courts (“NCSC”) to study the processing and adjudication of abuse/neglect court cases in Vermont.¹⁵⁹ The NCSC and CHINS Reform Workgroup reports are required reading for anyone looking to improve the court system in Vermont for children, youth, and families involved in child welfare or juvenile justice.¹⁶⁰ These reports echo many of the concerns relayed to the OCYFA in 2023. The reports propose many positive changes that would improve systems and outcomes for Vermont’s children.¹⁶¹ To our knowledge, there is still a substantial amount of the original \$7 million that remains unspent.

Vermont Should Elevate Youth Voice in Court

In our first year, the OCYFA was not able to fully assess the experience of children and youth in Vermont’s court systems. Our primary activity this year was speaking with callers about their experiences in court. In 2024, we plan to expand our findings and recommendation in this area.

Approximately 70% of referrals to the OCYFA in 2023 involved cases that were active in the courts. The following excerpt from the NCSC report sums up the feeling of youth callers to the OCYFA in 2023:

“The youth who were part of the focus groups described not participating and not feeling welcome to participate in their hearings. Best practices suggest that youth should be present in the courtroom; however, in multiple focus groups and interviews, participants stated that some judges do not want or do not allow the child in the court room. Further, some participants expressed frustration that DCF appears to prefer to not have child in the hearings and that DCF case workers often talk with young people about their right to appear or not



appear in court. The participants believe this determination should be made with their attorney.”¹⁶²

It unquestionably takes extra work on the part of everyone involved with the legal process to elevate youth voice in the courtroom. Courts are not by nature therapeutic places. As the NCSC report identifies, it can be stressful, confusing, or triggering for children and youth to be present in the courtroom, and sometimes they themselves specifically request not to be present.¹⁶³ But there is a difference between a child or youth making an informed decision not to attend or speak during a hearing, based on age-appropriate informed consent, and a child not knowing about the hearing at all or being excluded from the decision-making process about whether they should attend. As the National Association of Counsel for Children (“NACC”) and others point out, there are good reasons for children of all ages—even infants—to attend court.¹⁶⁴

The OCYFA also heard from child safety advocates who felt that in general children should have only a limited role in court due to the potential for exposure to trauma.¹⁶⁵ The OCYFA recommends individualized decisions for each child in each hearing on a case-by-case basis. There are many techniques that can be used to support children in court to avoid trauma and promote child voice. These include partial attendance, *in camera* (judge’s chambers) appearances or testimony, use of developmentally appropriate language, and therapy animals.

While Vermont guardians ad litem advocate for the “best interest of the child,” Vermont’s lawyers represent children on an “expressed interest” model. Expressed interest means that the child is the client and drives the representation, deciding what action to take in the case based on counseling from the lawyer, within reason. The lawyer is there to explain the way the court system works, articulate procedural frameworks in language appropriate to the child’s developmental maturity, and help the child set and achieve their goals. The expressed interest model for children is a national best practice that Vermont has already implemented and is a clear strength of Vermont’s court system.¹⁶⁶

“Children and youth possess legal rights and entitlements which must be honored, even when doing so is inconvenient and uncomfortable.” — National Association of Counsel for Children¹⁶⁷

Based on the calls OCYFA received in 2023 and the stakeholders we spoke with, we find that Vermont’s rules and customs toward the presence and voice of children in court are outdated. We believe that children of all ages should have a role in the court process, context dependent. While it is certainly possible to re-traumatize children by making them endure painful and unnecessary testimony or speak in front of family members without proper support, the far



greater risk is silencing their voices at the very moment when they most want to raise them. Once children have been through a traumatic event, it can be empowering for them to play a role in the legal process used to address that trauma.

Children and youth instinctively know that courts are places of power. While the opposite can sometimes be true, the opportunity to testify can help a young person transform their journey. The OCYFA strongly recommends collaboration among substitute caregivers, DCF, lawyers, GALs, judges, and court staff to ensure that children are given the opportunity to participate in legal processes to the extent of their wishes, development, and ability. Children muster immense courage to navigate court systems outside their ability to control. The extra effort required of adults to lift up their voices seems the least we can offer in response.

Vermont Should Elevate Family Voice in Court

Parents who contacted the OCYFA experienced many of the same patterns identified by youth, seeking clarity on what court hearings were about, what their rights were, and court processes and timelines. The most common advice we gave when a parent had questions about an ongoing legal matter was to contact their attorney. In response, the majority of callers said that they were not getting the support they needed from their attorney and that's why they were calling us.¹⁶⁸ In some cases, the OCYFA helped bridge these communication gaps.¹⁶⁹ As the NCSC recommended, the OCYFA believes that courts should focus on trauma-responsive strategies such as clearly describing the purpose and goals of each hearing at the beginning of the proceeding in plain language that all parties can understand, and providing orders in plain language. Some courts and judges are already doing this, but it will require an ongoing and comprehensive commitment to build trust with parents.

There remains a deep class divide in Vermont between parents who can afford to hire their own attorneys and those who cannot. A report by the Vermont Parent Representation Center found that the average cost of hiring an attorney for a substantiation appeal was between \$10,000 and \$50,000. For CHINS, Termination of Parental Rights, and custody cases, the cost could be higher. The VPRC report found that the biggest burdens of our legal system fell on “economically challenged, single heads of households, typically women.”¹⁷⁰

The OCYFA consistently heard from parents and children that their attorneys spoke with them only on the day of their hearing. We also heard of attorneys and GALs who rarely visited their clients. Some of these practices border on unethical. Parents and children also told us that they did not have access to court reports and evaluations. It was unclear in some instances whether lawyers and GALs were withholding documents that their clients had a right to see, or if the children and parents misunderstood their rights. Either way, this feeling was concerning.¹⁷¹



OCYFA RECOMMENDATIONS REGARDING CHILD AND PARENT VOICE IN COURT

1. The Vermont Judiciary and other stakeholders should develop clear policies supporting the rights of children to attend hearings based on their age and development and promote the use of plain language that all parties can understand across the court system.¹⁷²
2. DCF and the Vermont Judiciary should collaborate on a written explanation of the supports available to children in court, including scheduling hearings that do not conflict with important educational or other events, instituting transportation plans so that youth can attend hearings, the use of therapy animals, and other trauma-informed techniques to promote comfort and due process for children and youth in court.¹⁷³
3. The State of Vermont, Vermont Law and Graduate School, the University of Vermont, the Vermont private bar, and other stakeholders should work together to create a children's law center that provides independent information, training, and expertise to improve the child welfare and juvenile justice legal systems in Vermont.

2.5 Vermont Emphasizes Locked Facilities at the Expense of Support for Children and Youth

On October 26, 2023, the Joint Legislative Justice Oversight Committee heard testimony regarding DCF's "High-End System of Care." The day before, a local news outlet published a story about the abuse of children at Woodside Juvenile Rehabilitation Center, Vermont's former juvenile detention facility.¹⁷⁴ Calling Woodside "the elephant in the room," the DCF Commissioner and his team outlined DCF's plans for its juvenile justice facilities. DCF focused on the reduced capacity of its residential programs as compared to before the pandemic and the Department's efforts to build new facilities to treat youth with co-occurring mental health/trauma needs and safety concerns.¹⁷⁵ The Executive Director of Vermont State Employees' Union then took the stand and painted a bleak picture of employee health amidst an "imploding" system, ultimately calling for the deployment of the National Guard to ease the pressures on the "staffing" crisis for DCF employees, described above in [Section 1.6](#) and throughout this Report.¹⁷⁶

Less than a week later, a 14-year-old youth was killed with a handgun, allegedly by another 14-year-old youth. This incident intensified the perception that juvenile crime in Vermont is out of control and that Vermont's most urgent crisis is its lack of a locked juvenile facility.¹⁷⁷ In the past year, public officials and media stories have asserted that young people are increasingly violent and that youth from out of state are coming to Vermont to engage in drug trafficking or other crimes to exploit Vermont's progressive laws on juvenile crime, such as our Raise the Age initiative.

Missing from these conversations has been a focus on the needs of children, youth, and families.¹⁷⁸ If policymakers' focus is only on where to place juveniles in crisis, then the system will



be geared toward crisis, not prevention. Raise the Age is not a “set it and forget it” law. It requires ongoing support and implementation with an eye towards its benefits. In the Joint Justice hearing, DCF was unable to present data on the treatment needs of the children in its care, or the systemic gaps in providing community supports. Instead, it used a proxy: the number of “beds” and facilities available pre-pandemic versus those currently available. Amid the public reckoning with what happened at Woodside—which has shaken DCF internally—the lamentations of Woodside’s absence should be met with skepticism.

The system of residential care prior to the pandemic is not a model we should aspire to. Prior to the pandemic, Vermont utilized congregate care at rates higher than the national average.¹⁷⁹ It appears that DCF intends to expand the congregate care system, but the specifics are unclear. Partly due to the deficiencies in its data system, discussed below in [Section 2.6](#), DCF has not articulated important information about the needs of the children in its care, such as how many young people currently make up the high-end system of care, how many are currently in inappropriate placements, and what evidence-based practices could be implemented to serve those needs. We have not heard DCF speak publicly about the importance of prevention services to the high-end system of care. The Family First Prevention Services Act and the opportunities it provides to serve children in the high-end system of care have been largely absent from DCF’s testimony and reports.

Vermont’s recent trend toward punitive measures to address juvenile crime is misfocused. A handful of disturbing events have stirred community fears and become substitutes for clear-headed policy. But juvenile crime is not out of control or random. It follows well-known patterns that exhibit the characteristics of the developing brain: based in trauma, peer groups, and the influence of exploitative adults.¹⁸⁰ Moreover, while overall crime has risen in the last few years in Vermont, the share of young people committing those crimes has declined.¹⁸¹ Young people are more accurately seen as *victims* of crime rather than its perpetrators.¹⁸² In 2023, incidents in which young people ages 10-19 are victims have risen to their highest rate ever—both by raw numbers and percentage.¹⁸³ Concerns about young people being trafficked and used by adults to commit crimes should make us ask how we can support children and youth before they become victims, not merely where to place them once they are arrested.¹⁸⁴

If we truly want to create systemic change, we have to start by listening to the requests for support from children and youth. The onset of the pandemic in 2020 led to a significant rise in mental health challenges across our society for people of all ages, and young people were some of the most affected. In Vermont, according to the Youth Risk Behavior Survey, middle- and high-schoolers have been exposed to high levels of violence and other unsafe situations, leading to their poor mental health, anxiety, and suicide risk.¹⁸⁵ Non-white and LGBTQ+ young people are especially affected.¹⁸⁶ The mental health of young people is not a peripheral issue to juvenile



crime or victimization, but at its core.¹⁸⁷ Our policy should reflect current research and science that demonstrates the direct connection between trauma and youth decision-making. As one national expert explained it, “Trauma conditions people to believe that the world is unsafe, which can paradoxically lead them into greater danger. Seeing the world as unsafe makes people much more impulsive and reactive to whatever stimuli are present, sidelining the parts of the brain that process long-term consequences and risk.” The OCYFA finds that the way to support youth in feeling safe is not to create more punishments for people committing crimes. It is to support children, youth, and families with their basic needs. As one advocate framed it, “People would be surprised at how much teens worry about their parents not being able to pay the rent next month, or having enough food on the table.”¹⁸⁸

Trauma conditions people to believe that the world is unsafe, which can paradoxically lead them into greater danger.

Our Office understands that the safety of our communities sometimes requires that a youth be in a locked environment.¹⁸⁹ However, we believe that the number of young people requiring this highest level of security is small, usually between 0 and 10 at any given time. DCF has not presented data to explain its calculations of the size and treatment modalities of any future facilities. The goal appears to build fast rather than to build carefully. It is unquestionable that placing juveniles in adult facilities puts them at elevated risk of sexual abuse and other dangers.¹⁹⁰ But the bigger problem is not that we don’t have sufficient facilities in which to incarcerate young people.¹⁹¹ It is that we lack, as Vermont’s governor has said, “access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future.”¹⁹² Shouldn’t we focus on *those* needs at least as much as locked facilities? The fact that Vermont penalizes Black and other non-white youth at rates up to ten times their proportion in the state population demonstrates that the problem is far bigger than a lack of locked facilities.¹⁹³

We cannot build a better high-end system of care without qualitative and quantitative data that explains the actual needs of our children. If we create programs and placements without first understanding need, we risk fitting kids to placements, rather than the reverse. On the other hand, if we invest in prevention services, community supports, legal expertise, and a reduction in the number of kids coming into custody in the first place, we reduce the need for “staffings,” residential treatment, and incarceration. Calling for punishments without working to support communities absolves policymakers of their responsibility to protect children from victimization. We owe it to ourselves to work for the best for our young people, not construct a system that assumes the worst.



OCYFA RECOMMENDATIONS REGARDING VERMONT'S SYSTEMS OF CARE

1. DCF should re-engage the Columbia Justice Lab to strengthen Raise the Age implementation.
2. DCF should engage Casey Family Programs in targeted case reviews of 5 to 20 youth in the high-end system of care to assess the need for treatment, programs, and services.
3. DCF should study and track data on the long-term outcomes of young people after they leave residential treatment to assess system successes and areas for improvement.
4. The Vermont legislature should enact Senate Bill 6 of 2023 to limit the use of deception in the interrogation of children and young people.¹⁹⁴

2.6 DCF's Data Systems Actively Harm Children

“DCF’s data system was launched in the early 1980s, prior to the launch of the world wide web. Vermont has been asking our DCF Family Services staff to use 11 separate systems and 30+ Excel spreadsheets to support their work and reporting requirements. We know that this practice is time intensive, increases the likelihood of human error, and is cumbersome. We also know that the lack of a comprehensive data system that communicates across silos disadvantages us and the children, youth, and caregivers in our child welfare system. We are currently unable to speak confidently about trends in outcomes for the system that is responsible for the well-being of some of Vermont’s most vulnerable children and youth.”- Vermont Citizen’s Advisory Board, 2021.¹⁹⁵

Anyone who works closely with the Family Services Division of DCF (“FSD”) knows that the digital systems FSD uses to take notes, track family demographic data, prepare for court, pay bills, and perform a host of other basic functions of child welfare, is obsolete. A recent media story gave an overview.¹⁹⁶ As one DCF official who is an expert on the current system put it, “DCF does not have a case management system, it has a data system.”¹⁹⁷ Unfortunately, even as a data system, it is a failure.

The two main databases DCF currently uses to track demographic and placement information for children in its custody, SSMIS and FSDNet, date from 1983 and the 1990s, respectively.¹⁹⁸ DCF now has the oldest child welfare data system in the nation. When the federal Administration for Children and Families (“ACF”) first required states to standardize their systems in 1993, it offered a 90% federal match to support states in upgrading. Vermont chose not to take the offer. In 2016, the ACF upgraded its required data protocol to the current iteration, called the Comprehensive



Child Welfare Information System (“CCWIS”), offering a 50% match.¹⁹⁹ As of late 2023, at least 46 states, the District of Columbia, and Puerto Rico have implemented or committed to implementing CCWIS.²⁰⁰ Vermont is still not one of them.

It is challenging to measure the full impact of the State of Vermont’s continual reliance upon DCF’s data system. There is no control group to compare the current system with what Vermont’s child welfare systems would look like with a functional system. The data issues are circular—the harder it is to use the system, the worse the system becomes, and the harder it is to see what is going wrong. The confidentiality of the system as a whole means that the extent of the crisis is kept out of sight of the legislature and the governor. But the signs are hidden in plain sight: the lack of sufficient prevention services for children, youth, and families, the “staffing crisis,” the high rate of children coming into care, the clogged court system. The annual choice not to modernize the data system makes it easier for DCF to balance its budget each year, but only because it shifts the costs onto the children, youth, and families DCF is supposed to serve. It is not that we are saving money by continuing to prop up our obsolete system—we are simply making it harder to calculate its cost. The approach Vermont is using is not unlike the financial practices that brought on the Great Recession: the true risks driving the market were masked for years—then they collapsed all at once. In retrospect, the signs seemed obvious.

To measure the fiscal impact of DCF’s system, it helps to think globally. The lack of a modern case management system touches nearly every aspect of the DCF Family Services Division’s \$140 million budget for Fiscal Year 2024, large parts of DCF’s \$65 million administrative budget, most of the \$3.9 million secure residential treatment budget, and a host of other related budgetary effects too numerous to detail here, including parts of the budgets of the Office of the Defender General and Judiciary.²⁰¹ It is not an exaggeration to say that FSD’s current data systems are connected to over \$200 million in DCF’s annual budget—most of which comes out of the General Fund.²⁰²

It is not an exaggeration to say that FSD’s current data systems are connected to over \$200 million in DCF’s annual budget—most of which comes out of the General Fund.

But the most important impacts of the State of Vermont’s decision to maintain an obsolete system year after year go beyond budgetary. They implicate the very core of DCF’s mission.²⁰³ Think of almost any daily activity of DCF-FSD, and the data system is connected. As outlined throughout this Report, DCF cannot create a safe and stable high-end system of care without a new case management system. It cannot bring racial justice to its programs without a new case



management system. It cannot reform the substantiation system without a new case management system. It cannot “prevent another Woodside” without a new case management system. It cannot improve worker morale without a new case management system. And most importantly, it cannot keep the children in its care safe without a new case management system.

Efforts to articulate the necessity of a new system over the past decade have come from within DCF and externally. Voices for Vermont’s Children and the Vermont Citizen’s Advisory Board have probably been the most vocal advocates outside DCF. The push to fund a new system has now gone unanswered for so long that DCF no longer includes a new system as a line item in its budget. There appears to currently be approximately \$4 million set aside for a new system in DCF’s budget using carryforward funds—meaning that DCF must ask to keep these funds each year and regularly risks their reallocation to other departments or projects.²⁰⁴ It appears that DCF is now considering funding the new system incrementally, because they “cannot afford” to bring in a comprehensive system all at once. An incremental approach would mean laying the new system *on top of* the current one, in stages, over multiple years, with no guarantee of its actual completion. New systems are certainly not cheap, but the cost of maintaining the current system—and especially of an incrementalism that would mean *multiple* systems for years of transition—is far greater. If a new system is truly brought on incrementally, the OCYFA expects to see a notable rise in DCF-FSD worker vacancies.

We call on officials at the highest levels of Vermont government to comprehensively address this issue and fully fund a new CCWIS system for Vermont.

We believe that the OCYFA is well-positioned to make the case for a new CCWIS system for DCF. We are non-partisan, child-centered, and part of state government yet independent. We have access to records and information that other entities do not. And we are connected to the technical expertise necessary to measure the problem and support its remedy. We call on officials at the highest levels of Vermont government to comprehensively address this issue and fully fund a new CCWIS system for Vermont.

In the following section, we have broken down the ways in which the data system impacts Vermont into the following categories, each with its own section:

1. Protecting child safety and well-being and ensuring equity;
2. Tracking AHS and DCF outcomes, complying with federal requirements, managing and drawing down federal funds, and improving Vermont’s child welfare systems;



3. Ensuring that Vermont’s decisionmakers—courts, legislators, and administrative officers—have the information they need to make critical decisions;
4. Supporting front-line DCF workers; and
5. Preventing crises like cyberattacks, lawsuits, billing errors, and federal audit penalties.

Protecting Child Safety and Well-Being and Ensuring Equity

Imagine a modern hospital serving thousands of patients without a functional electronic health record database. The hospital generally knows the names and ages of those it serves, but it must seek out individual doctors, nurses, and staff to ask what a patient’s treatment needs are. To find the room number for an admitted patient, staff must track down a paper chart at someone’s desk. There is no searchable system to see what treatment a patient has received or what medications they are allergic to. When hospital officials are asked why they don’t have such a system, they say they can’t afford it.

Or think of a bridge. Every day, 40 school busses, each carrying 50 children, drive over the bridge. The bridge is old: its guardrails are only four feet high and there is no shoulder. The road is filled with potholes. Parents and bus drivers have been complaining for years that the kids traveling over the bridge are unsafe. But the state says it just doesn’t have the money to fix the bridge. Nothing bad has happened, and there are other needs. It’s cheaper to just put it off a little longer.

These metaphors may seem outlandish, but we believe they are reasonable analogies for the State of Vermont’s current approach to DCF’s child welfare information systems. When it comes to a full picture of the needs of the children in its care, DCF is essentially blind. It cannot reliably measure the needs of its children, their diagnoses, their allergies—even, sometimes, their location.²⁰⁵ It cannot assess the conditions of placement of the children in its care. In an emergency, DCF does not have critical information at its fingertips that could be lifesaving. While these vital pieces of information are generally documented somewhere, the information is often scattered across multiple locations: paper case files, excel spreadsheets, unwieldy screens in the current system. These sources are disconnected, redundant, difficult to access, and subject to human error and typos. If you are wondering why something terrible hasn’t already happened, consider the negative outcomes FSD-involved families and staff have experienced in recent years, and whether these could have been averted by a system that allows for effective communication, timely service referrals, and streamlined functionality directly related to safety.

On a systems level, DCF cannot analyze the community supports, treatment, and services the children in its custody need. It cannot accurately track, on a quantitative level, when children in foster care start services and when those services stop—a critical function for treatment and federal funding. It cannot measure the four corners of the high-end system of care discussed in this Report. It cannot craft a high quality—and least restrictive—residential system of care.



Without a reliable case management system, DCF also cannot engage in authentic equity justice work. It cannot adequately self-analyze to avoid unnecessary removals, identify kin who might prevent removal, or reliably track disability, religion, tribal identity, race, or sexual orientation. Without a new information system, DCF's current algorithmic tools, such as the Structured Decision-Making tool ("SDM"), introduced to mitigate bias, do the opposite. They become simultaneously more inaccurate and disproportionately powerful. These tools then begin to measure the deficits of the system itself rather than the safety of children and protective capacities of parents they are designed to assess.²⁰⁶

The OCYFA has been hearing about and discussing the data system in various forums since the Office came online. The reactions have varied. For stakeholders well familiar with child welfare in Vermont, the response has often been deflated, essentially "we've been asking for years and nothing has happened." We have also heard the relativism of "Do you know how many other AHS systems need fixing?!" A few community members have even become impatient, wondering aloud why the OCYFA doesn't work on more fundamental issues, such as the racial disproportionality of children in foster care. A common feeling is, "Why spend millions of dollars on a system for DCF when families need so much support?"

Those feelings are understandable, and they are not wrong. As discussed above, families *do* need support. There *are* other issues that need funding.²⁰⁷ But working on the new CCWIS system *is* racial justice. It *is* family support. It *is* child safety. And it *is* innovative new programs. It is a predicate to almost any equity initiatives in Vermont's child welfare and juvenile justice systems. Addressing the problem is perhaps the most efficient path to systemic change in child welfare in Vermont. Not addressing it amounts to continued self-sabotage. If policymakers really want to compare the relative urgency of the various data systems in need of upgrading, we welcome the analysis. We see no other initiative that has the cost-benefit upside of CCWIS.

Intentional or not, Vermont's continual refusal to address this clear and obvious problem sends a loud message to children, working class Vermonters, and communities of color that they just aren't important as maintaining the status quo and balancing the budget.

Tracking AHS and DCF Outcomes, Complying with Federal Requirements, Managing and Drawing Down Federal Funds, and Improving Vermont's Child Welfare Systems

All State child welfare agencies are subject to periodic federal audits and reviews, including those associated with Title IV-E programs, the Adoption and Foster Care Analysis and Reporting System ("AFCARS"), the National Child Abuse and Neglect Data System ("NCANDS"), the National Youth in Transition Database ("NYTD"), and others. Vermont's audit findings have consistently noted the significant deficiencies of its data system, which in some cases are directly tied to errors and resulting sanctions. For example, any foster care maintenance expenses for which FSD claims Title



IV-E reimbursement must be supported by documentation demonstrating that expenditures were made on behalf of an eligible child, for allowable services. If a payment is made for a child's foster care placement during a time that they were in unlicensed care, or when they did not meet IV-E eligibility, this could result in an audit finding and require the State to repay funds and penalties to the federal government. These kinds of errors are unfortunately common due to the current information system's inability to accurately collect and reflect the necessary up to date information.²⁰⁸

DCF is currently unable to reliably meet the requirements necessary to receive and/or maximize federal Title IV-E reimbursement in several areas. This manifests through errors and audit findings mentioned above, as well as the missed opportunities to draw down Title IV-E funding for foster care and prevention payments discussed throughout this Report. DCF is expending scarce General Fund dollars on expenses that could be reimbursed by federal funds if implemented in accord with federal requirements. The ability to meet the applicable requirements hinges in large part on a functional data system to accurately collect and report details related to IV-E eligibility, placement, service delivery, and payments. Unfortunately, DCF is unable to reliably meet these requirements, and therefore is unable to leverage federal funds in these areas.

Group care payments comprise potentially the most significant lost federal reimbursement due in part to DCF's data system inadequacies, which appears to have resulted in the annual addition of a line item added to the Department's budget beginning in Fiscal Year 2023 (July 1, 2022-June 30, 2023) to make up for these lost funds.²⁰⁹ This number is over \$1,000,000 for Fiscal Year 2024 (July 1, 2023-June 30, 2024) but is likely to increase in future years.²¹⁰ This is the result of the federal Family First Prevention Services Act, discussed above in [Section 2.3](#), which incentivizes family-based placements for foster youth in part by limiting Title IV-E reimbursement for any group care settings to 14 days unless the facility is a Qualified Residential Treatment Program (QRTP).

Vermont has not yet elected to move forward with transitioning its group care providers to Qualified Residential Treatment Programs (QRTPs), a decision in part due to the costs and barriers related to the lack of an updated data system. Since approximately October 1, 2021, DCF has been unable to claim federal reimbursement for any foster care payments made to group care providers for stays beyond 14 days, and these costs are borne fully by state general funds. When paired with the fact that DCF has recently increased rates for these providers, the fiscal impact is significant and will likely increase over time.

The result is a precipitous drop in DCF's Title IV-E quarterly revenue from a high of about \$184,000 in the third quarter of calendar year 2020, to a low of \$11,500 in the fourth quarter of 2022, when the QRTP requirement went into effect. Claims remain significantly lower than before the QRTP requirement took effect, with the most recent claim for the quarter ending September 30, 2023



coming in around \$21,500 for the federal share. It is evident this drop is not primarily driven by a change in the number of youth in these placements, as the loss is reflected on a per-child basis as well. When calculated on a per-child basis, these figures correspond to a decline in the average quarterly draw-down per quarter for each IV-E eligible child in group placements from a high of about \$3,500 per child, to \$500 per child in the most recent claim submitted.²¹¹ In declining to move towards the best practice for children of limiting group care placements to only high quality, therapeutic, short term settings, Vermont is also forgoing what will quickly amount to millions of dollars in federal revenue. While there are surely multiple drivers of this decision, the barriers posed by the current data system deficiencies are undoubtedly a significant factor.

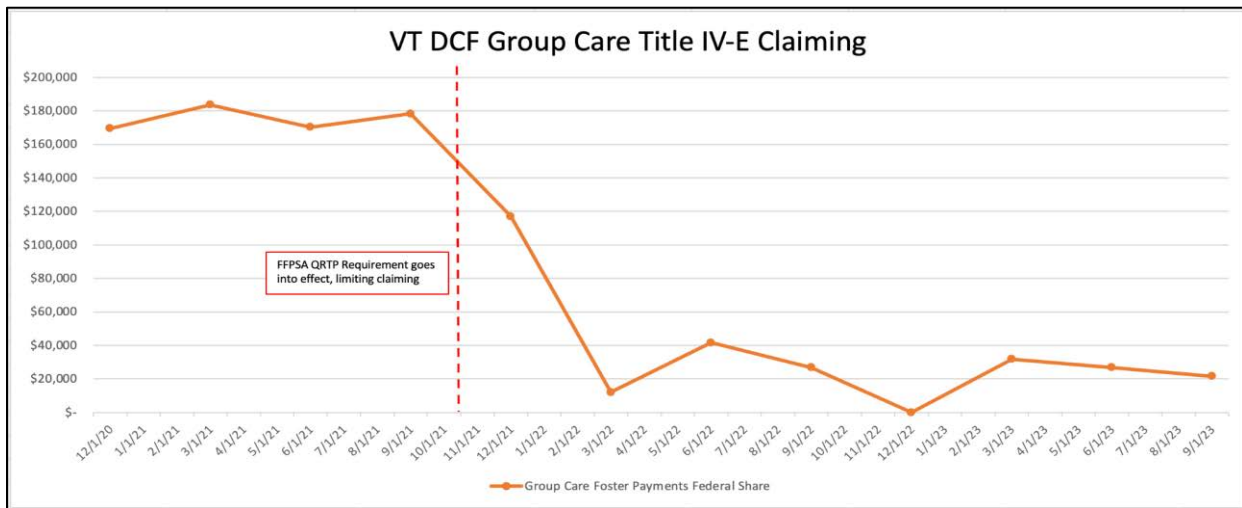


Figure 2 (above): Vermont DCF Group Care Title IV-E Claiming Over Time

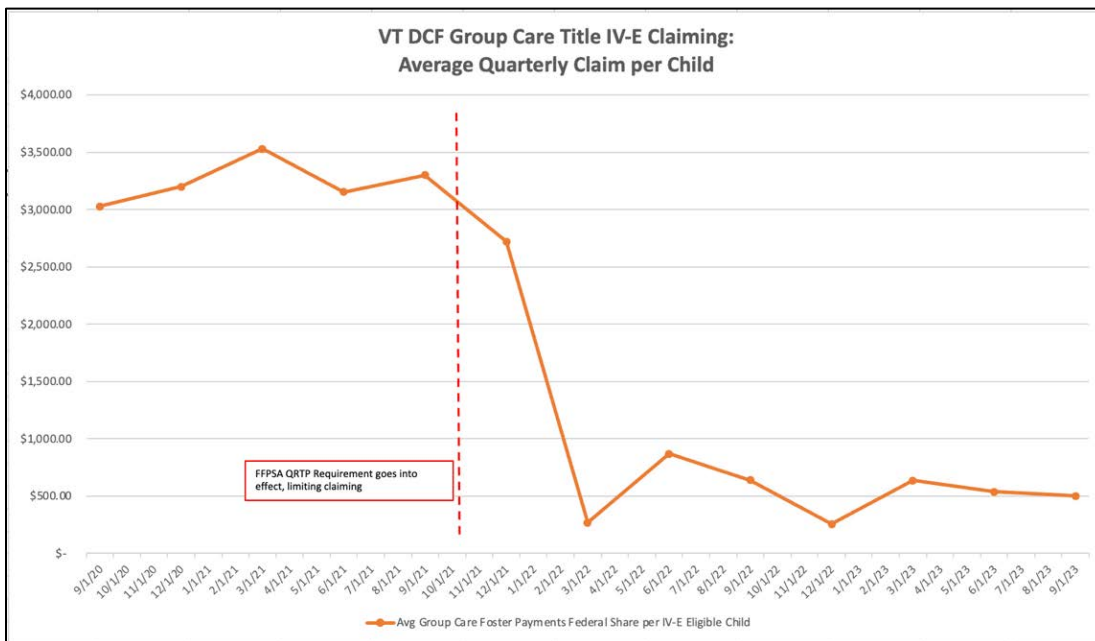


Figure 3 (above): Vermont DCF Group Care Title IV-E Claiming: Average Quarterly Claim Per Child Over Time



Prevention Services and Legal Representation

As discussed throughout this Report, Federal Title IV-E funding is available to reimburse a wide range of activities and expenses. Unsurprisingly, these processes and documentation requirements are heavily dependent on a functional data system. General categories of claiming include foster care, adoption assistance, guardianship assistance, and prevention activities.

Foster care is often the largest area of claiming, and allowable costs include the categories of maintenance, administration, and training. Examples of allowable maintenance expenses include:

- food;
- clothing;
- shelter;
- daily supervision;
- school supplies;
- a child’s personal incidentals;
- liability insurance with respect to a child;
- reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement; and
- In the case of institutional care, the reasonable costs of administration and operation of such institutions as are necessarily required to provide the items described above.²¹²

In the category of administrative costs, funds are intended to support “administrative expenditures necessary for the proper and efficient administration of the title IV–E plan,” including:

- Referral to services;
- Preparation for and participation in judicial determinations;
- Placement of the child;
- Development of the case plan;
- Case reviews;
- Case management and supervision;
- Recruitment and licensing of foster homes and institutions;
- Rate setting;
- A proportionate share of related agency overhead;
- Costs related to data collection and reporting.²¹³

In the area of judicial determinations and court-related activities, possible application of IV-E funds is significant, as detailed in the 2021 Information Memorandum titled “Utilizing Title IV-E Funding to Support High Quality Legal Representation for Children and Youth who are in Foster



Care, Candidates for Foster Care and their Parents and to Promote Child and Family Well-being.”²¹⁴ Allowable activities can include those performed on behalf of IV-E eligible children that are candidates for foster care, or those in foster care, and include participating in case planning meetings, providing legal interpretations, preparing legal briefs, and other related activities. While expenses must be claimed by the Title IV-E agency (i.e. DCF), they may be provided by social workers or other agency staff, or through an MOU or contract with partners, including the Office of the Defender General, the Vermont Judiciary, and community organizations, such as Vermont Legal Aid or the Clinic at Vermont Law School. Additionally, a recently proposed federal rule change details further flexibilities and allowable costs related to foster care legal representation, as explained above in [Section 2.3](#), which could be opened through an updated system.²¹⁵

While these options are available now to DCF, the current data system appears to be insufficient to effectively implement and claim federal reimbursement for many of them. This limits access to federal revenue, and negatively impacts children and families that would benefit from these services.

Data Collection on Transition-Aged Youth

While DCF offers some services to youth who have aged out of foster care, it does not have an approved plan to draw down federal money to support youth once they have reached age 18 and can legally manage their own lives. Vermont’s lack of a modern information system has been a clear obstacle to implementing extended foster care in Vermont.²¹⁶ Vermont’s most recent National Youth in Transition Database review indicates significant data collection issues in the way DCF tracks older youth, including incorrectly reporting foster care status, technical problems, and “programmatically issues ... causing the data of these elements to be unreliable.” “Vermont has practice issues related to data quality that need to be addressed,” the Children’s Bureau wrote. “Workers are not consistently entering information for date of birth, sex, Hispanic or Latino ethnicity, and education level” and “Vermont is not reporting federally recognized Tribes.”²¹⁷

Decision-Making: Courts

Vermont’s court system also relies on the functioning of an effective data information system for DCF. Courts’ ability to achieve the goals of ensuring the safety of children, preventing unnecessary removals, and establishing permanency, such as return to birth parents or adoption, relies on the interpretation by judges of reliable DCF data drawn from a high-quality case information system. As one former federal official on the National Judicial Opioid Task Force put it, “we believe very strongly that judges and attorneys play absolutely critical roles in prevention in and out of the courtroom and that judicial support for robust community-based prevention programs and enhanced attention to reasonable efforts will have a ripple effect across the justice system by



helping children and families stay safe and healthy and avoid juvenile justice and child welfare involvement. Prevention is the work of the courts.”²¹⁸

Every CHINS case relies on a DCF Family Services Worker’s ability to bring accurate, timely, and relevant information to court that clearly identifies the risks and protective capacities of children, youth, and families. The UVM Drivers of Custody report found “irregularities” in the use of the SDM tool, in which a “large percentage” of cases the researchers reviewed did not have safety assessments completed prior to the worker making removal recommendation.”²¹⁹ This means that DCF was asking a judge to place a child in foster care without a clear understanding of the actual danger the child faced. There obviously could be many reasons for these systemic breakdowns, but the time it takes workers to generate even the most basic information undoubtedly plays a big role. DCF’s current data systems do not give workers the tools they need to create high quality court reports. And that means that judges don’t have the information they need to make critical decisions.

Decision-Making: Legislative Information and Data Related to Restraint and Seclusion, Child Injury, and Fatalities

Without a reliable child welfare information system, the Vermont legislature does not have an accurate picture of the needs of Vermont’s children, youth, and families. One recent example is the September 1, 2023, “DCF Raise the Age, High End System of Care Status Update.” The data analysis section of that report is just one paragraph long and contains very little qualitative or quantitative data. It does not answer even the most basic questions about youth in the “High-End System of Care,” such as:

- How many young people currently make up the high-end system of care?
- Of those youth, how many are adjudicated delinquent, how many are affected by Raise the Age, how many are youthful offenders, and how many have ongoing CHINS involvement?
- Of those youth, what are their needs, in terms of physical health, mental health, education, and community involvement?
- What treatment are those youth currently receiving, and for those who are not getting the treatment they need, what treatment modalities would make up the gap?
- How is DCF affected by having to share “contracted beds” with other Vermont entities, such as the Department of Mental Health (“DMH”), and the Department of Aging and Independent Living (“DAIL”)?

DCF’s use of the gap between current and pre-pandemic residential treatment capacities is an insufficient metric to envision our future system of care. If this system is truly designed to support children and youth, at some point their needs have to be assessed. (To be clear, confidentiality is



not the issue here—we are talking about aggregate data). We believe DCF’s data systems are the main reason that this information is not included in their reports. The first step to strengthening that foundation is acknowledging its shortcomings.

Relatedly, DCF’s data system issues also affect the mandate of the OCYFA itself. One central reason for the creation of this Office was to improve DCF’s informational transparency.²²⁰ The OCYFA enabling statute requires DCF to notify the OCYFA of all incidents of actual physical injury to children or young people in DCF custody, or youth at significant risk of such harm, as well as instances of restraint or seclusion of any child or youth in custody of the Commissioner.²²¹ While DCF submitted about 30 reports of injuries or children at risk of injuries to us in 2023 (see [Section 3.3](#)), it has sent only *one* restraint/seclusion data set for *one* facility in the Office’s first eight months in existence. One reason for this failure is the way data on restraints and seclusions flows to DCF from hospitals, licensed treatment facilities, unlicensed placements, and schools—each of which have separate obligations, definitions, and licensing requirements. These intricacies are hard to track even with a good data system, but without one, they are almost impossible. Without a new data system, DCF cannot follow its statutory obligations to the OCYFA, the legislature, and our constituencies.

Decision-Making: Administrative Information and Substantiation Registry

On October 22, 2022, the Vermont Parent Representation Center (“VPRC”) released a report called “Broken System, Broken Promises,” calling for wholesale overhaul of the process DCF uses to “substantiate” people for abuse and neglect.²²² In its own review of 30 substantiation cases, VPRC found that DCF’s investigations were inconsistent and inadequate to determine fact from hearsay, that substantiations were guided by DCF’s internal and unstated assumptions, and that DCF’s inability to maintain evidence, investigative files, and forensic interviews in a centralized location negatively impacted the substantiation and appeals process.²²³ DCF has since committed to reforming the substantiation process. Multiple legislative proposals are pending for the 2024 session.

The substantiation system—both in its current form, and in the proposals to amend it—relies on information that DCF reviews at the district level, presents to an internal DCF reviewer if the substantiation is appealed, is heard by the Vermont Human Services Board if appealed again, and then is potentially adjudicated by the Vermont Supreme Court. While the VPRC report did not name the issue explicitly, many of the inconsistencies and failings of the current substantiation process are magnified by the current data system. VPRC has proposed raising the legal threshold required to substantiate from the “reasonable person” standard to “a preponderance of the evidence.” This subtle but significant change relies on the presentation of a reliable evidentiary record—by DCF *and* the appealing party—to the adjudicating body, whether that body is the DCF



Central Review and Registry Unit (“CRRU”), the Vermont Human Services Board, or the Supreme Court of Vermont.²²⁴

Data accuracy is especially important to potential legislative amendments to the substantiation process because research shows that a high standard of proof decreases the probability of substantiation by up to 14 percent, largely in cases that are harder to prove (with virtually no change in cases that are easier to prove). This means that under a preponderance of the evidence standard, fewer people would be unnecessarily substantiated, which is the desired result of reforms, but also that there would be some cases that could not be substantiated even though maltreatment had occurred. The ability of our systems to reduce unnecessary substantiations while also ensuring that we have guardrails to protect children is directly dependent on a data system that can produce reliable, efficient, and relevant information. CCWIS is crucial to the long-term success of substantiation reform.²²⁵

Supporting DCF Workers

Front-line DCF workers—especially Family Services Workers—carry the primary emotional burden of working with DCF’s current data system. The health and welfare of DCF workers is intimately connected to the experiences of children, youth, and families in the child welfare system. Worker safety has reached a critical point in recent years with several incidents impacting daily functioning and morale across the Department. Worker stress harms individuals and contributes to staffing shortages, but it is also strongly correlated with increased removals of children into foster care. The higher a DCF worker’s general stress level, the more likely they are to favor bringing children into care in general.²²⁶

Working with the current DCF data systems—FSDNet and SSMIS—is taxing on workers. It is an aggravating factor that elevates the stress of a job that is already a challenge. OCYFA conducted an anonymous survey of DCF workers about their experiences working with the current system and the responses were overwhelming.²²⁷ One worker wrote:

“SSMIS is [almost] older than I am. ... It is incredibly hard to use, still uses the escape button, doesn’t connect with a mouse. It is hard to move from one panel to another. When looking for historical information you often need to look in multiple locations to piece together a narrative of what actually occurred. ... Some pieces of FSDNet are simply not used, the risk assessments in FSDNet are not actually the risk assessments we use. When looking up intakes, they do not organize chronologically and don’t have a filter option, so to gather a full history, you need to write or type the information elsewhere to get a chronological understanding of a family’s involvement. This system is severely lacking in any organized way to identify family members, ICWA status or important events. For example, our cases are opened under custodial parents, most often mothers. I have no



way of looking up a father and then identifying that he has three children with different mothers. I also don't have a way of looking up addresses."²²⁸

A supervisor wrote:

"If a safety issue exists at [a placement] and I assigned to employee A, I have no way of looking up that address to see if any other employee is also working in that home/apartment with another family. SSMIS and FSDNet also don't speak to each other so we are often duplicating or triplicating our work. For example, if demographic information is wrong in the report and I find that out when I meet with a family, I then have to update this in FSDNet in the intake. I then need to tell admin to update in SSMIS. If I want childcare on that case, I then need to email all the demographic information to our childcare partners because even though they can "see" SSMIS on their end, when I [enter it], it doesn't show all of the information."

In various venues and meetings, we heard or experienced other examples:

- DCF workers fielding non-applicable reports of at the Centralized Intake and Emergency Services abuse and neglect hotline ("CIES")—such as callers complaining about not having received their Social Security check—must spend significant time clicking through mandatory "screens" before moving on to calls that truly involve the safety of children.²²⁹
- DCF workers cannot upload pictures or videos to FSDNet because of the risk it will crash and they will lose their not-yet-saved work. The visual information is therefore kept separately from written descriptions of the same incident.
- Even absent any attempt to upload files, crashes and lost data frequently occur.
- SSMIS is so challenging that only one person per office enters placement data in the system. This leads to backup copies being kept on paper, resulting not just in lost information, but the potential for late claiming and billing if that one person is out of the office.
- At several crisis points, such as during the pandemic and the recent flooding, the only way DCF knew where the children in its care were placed was through individual physical notebooks with printed and handwritten information.
- CIES intakes accepted for investigation or assessment are sometimes "appended" multiple times over days or weeks, presenting challenges to decipher new information and allegations from old.²³⁰

As mentioned above, FSDNet and SSMIS complicate the use of the Structured Decision-Making tool ("SDM") that DCF uses to avoid systemic bias. The UVM Drivers of Custody report reviewed a set of cases in which DCF found a child to be "unsafe" and in which the children in question did *not* enter custody within a year. "We hypothesized that this group of cases could provide valuable



insight into child protection practices and/or services that effectively prevented custody. We completed case reviews on 18 such cases. Ten of these cases appeared to be data glitches in which custody episodes did occur according to affidavits and case files but information about custody was not present in the administrative data sets or unable to be linked using the administrative data,” the researchers wrote.²³¹

The UVM report also made clear that DCF workers are overusing two SDM assessment categories that are “only supposed to be used sparingly and allow more room for risk versus concrete or specific evidence of immediate danger.”²³² DCF worker usages of these two miscellaneous categories comprised 29% of SDM tool assessments in the cases analyzed by UVM. The results of the UVM case study have the markings of workers pressed for time and unable to generate crucial information needed to make custody decisions. For DCF to continue to spend significant time, energy, and money investing in an algorithmic data tool while at the same time relying on a data system that struggles to produce even basic front-end input is like investing in excellent snow tires when your engine is spewing smoke.

There are 178 Family Services Worker positions in the state.²³³ If each worker loses two hours of productivity a week (which by all accounts is a conservative estimate), that is almost 18,000 hours a year, or \$676,400 in lost wages.²³⁴ This is obviously a rhetorical way of measuring fiscal impact, but it serves to make the point that lost productivity should matter when we assess the true cost of a new comprehensive child welfare information system.

Under these conditions, it is a testament to the commitment of the DCF child welfare workforce that there are *only* 20 vacancies out of the 178 FSW positions in the state.²³⁵ One of the clear strengths of DCF is its committed front-line workers. But as the recent call to “bring in the National Guard” demonstrates, that workforce is near a breaking point.

Preventing Crises Like Cyberattacks, Lawsuits, Billing Errors, and Federal Audit Penalties

By one estimate, 80% of what is happening in DCF policies is not part of the digital information workflows on SSMIS and FSDNet.²³⁶ This means that workers, supervisors, billing personnel, and everyone else who works with these systems must get creative. Unfortunately, creativity means redundancies, such as duplicating SSMIS information in an excel spreadsheet. Transferring redundant data wastes time and presents opportunities for error.

The data systems also mean DCF struggles to track elements necessary to pay its vendors. According to one DCF employee, the state’s reputation for paying its bills promptly has suffered in recent years as the data system becomes more and more outdated. There have been multiple instances of paying the wrong vendor, or at least not paying the right one. For any entity thinking of doing business with the State of Vermont, DCF’s ability to pay its bills accurately and timely is certainly a factor, especially given the administrative burdens involved with any state entity. These



factors should also be considered when assessing the number of unanswered Requests for Proposal (“RFPs”) DCF has issued in recent years.²³⁷

SSMIS and FSDNet also weigh on DCF’s internal administrative functioning. Due to the systems’ fragility, standard practice is for just one person in each office to handle standing administrative tasks. Because each of these point people also has other responsibilities, the time they spend on SSMIS and FSDNet detracts from other important projects. Their crucial roles also impact their time off. The same zero-sum phenomenon applies to the one programmer who fully understands how to program the systems. If DCF has to “add screens,” the ripple effects are onerous. And if this one programmer decides to take another job, could DCF attract another? Would anyone with programming skills take the time to learn an obsolete system in an obsolete language?

Another underexplained aspect of the impact of the data system relates to DCF’s role in licensing foster homes and facilities. DCF’s ability to assess the safety of these entities is limited by the data system. For example, SSMIS cannot produce a report that cross-references privately licensed homes in the licensing process with a list of the children currently residing in those homes. The reasons for such a review are obvious: if a critical incident occurred, the database may not reflect where children are actually placed. Additionally, DCF cannot search FSDNet intakes by facility type or facility name. This can impact the assessment for licensure for problematic facilities and also contributes to inaccurate public information request responses. The result is that DCF engages in a labor- and time-intensive workaround that has the potential for errors that directly impact child safety.

Finally, the DCF system is a sitting duck for a cyberattack. Recent incidents at the University of Vermont Medical Center and Vermont Legal Aid serve as warning signs of what could happen to DCF. Cybercriminals routinely seek out systems that contain invaluable information, are easy to attack, and are backed by sufficient money to pay ransom. The safety implications of DCF being cut off from the most basic information about the children in its care are substantial. And the optics and technical aspects of such a situation could mean that the State would have to pay the ransom demanded.

The UVM Medical Center attack cost the hospital more than \$65 million—and no data was actually breached.²³⁸ The costs came largely from having the system down for weeks while malware was removed. “While it was a significant inconvenience and a big financial hit, the fact that no data was breached was huge,” one UVM official said.²³⁹ In testimony in front of the United States House of Representatives, the UVM Medical Center president said that dealing with the cyberattack was “much harder than the pandemic by far.”²⁴⁰



Conclusion: Looking Forward to a New Data System

Transitioning to CCWIS will not be simple. At a minimum, it will require support from the legislature and the leadership of the Vermont Agency of Human Services. But there are some advantages to Vermont's late-mover status. For one, in recent years CCWIS systems have gotten cheaper as more states need CCWIS services and companies compete for their business. Starting a system from scratch is challenging, but also brings the benefit of being able to design from the ground up, leverage lessons learned by other states, and gather feedback on particular vendors once bids are in. The costs of a new system will be significant, but those costs must be weighed against the costs of the current system, the cost of continuing to wait, and the cost of implementing a new system incrementally. Federal systems are only likely to increase their reliance on digital protocols like CCWIS as time goes on. Vermont's opportunities to create innovative programs will only grow. Recent federal rulemaking by both the Trump and Biden administrations demonstrates the expanding ability of states to exercise creative flexibility under federal regulations. Vermont's policymakers at every level should think holistically about the true costs of a new system and act boldly in the name of fiscal and programmatic efficiency. A new Comprehensive Child Welfare Information System will bring benefits to Vermont's children, youth, and families and its child welfare workforce that will be utterly consequential.

OCYFA RECOMMENDATIONS REGARDING DCF'S DATA SYSTEMS

1. The State of Vermont should fully fund and onboard a Comprehensive Child Welfare Information System ("CCWIS") using the 50% federal match and exploring financing mechanisms that do not demand cuts in DCF's programs or services.
2. In implementing CCWIS, DCF should solicit input and leverage expertise from young people, foster parents, kinship providers, and the Division of Racial Justice Statistics within the Vermont Office of Racial Equity.



Report Conclusion

“My dream would be for a child welfare system here in Vermont where we start over, dismantling all of the internal racism that’s already baked into the system...so that all the children that come into our system have the same fair advantages, hopefully to be safe, secure, and have permanency.” —Aryka Radke, Deputy Commissioner of DCF Family Services Division²⁴¹

*“If we as adults cannot do better, we cannot ask the same of our children” –
Dr. Saida M. Abdi²⁴²*

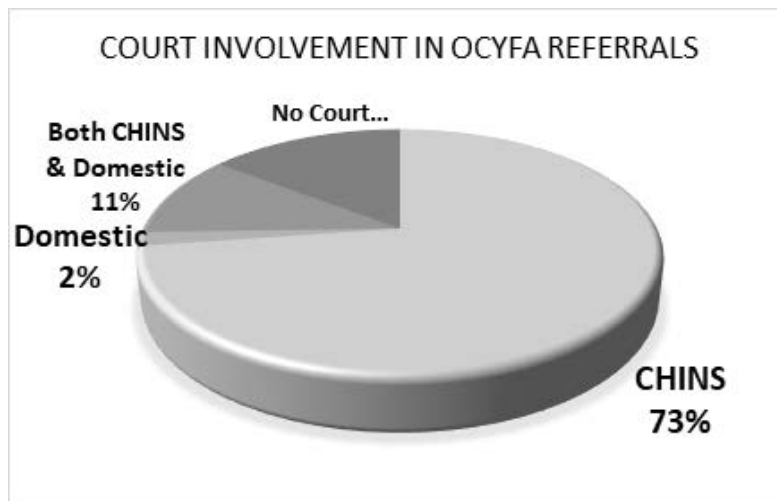
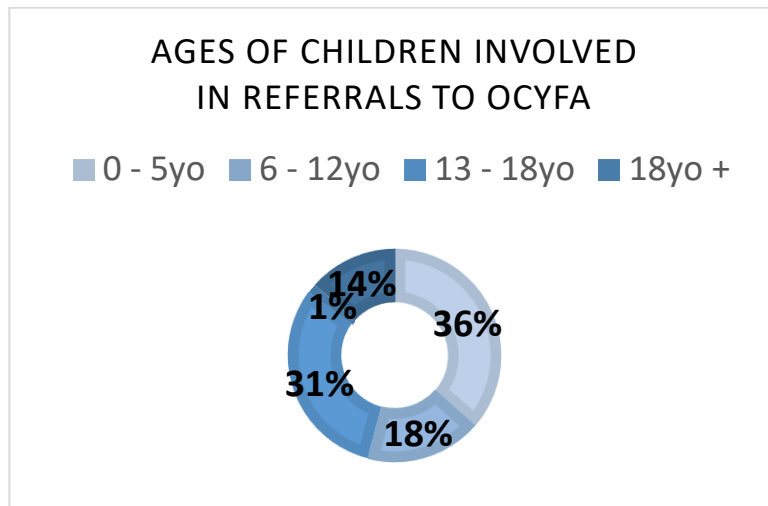
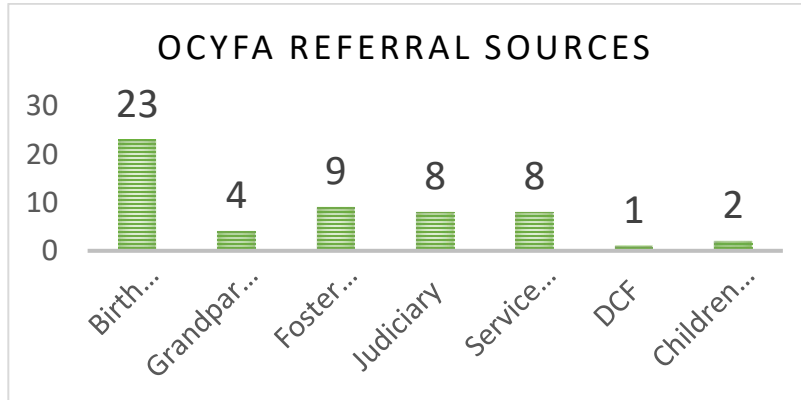
Vermont has a great deal of work to do to ensure that Vermont’s children, youth, and families have equal access to safe and stable livelihoods. There is no question that DCF must make changes, but it needs help. Many of the problems in the child welfare system are now too big for DCF alone to solve. This Office was created to advocate for Vermont’s most vulnerable children, youth, and families. We do not “oversee” DCF or have the ability to change it on our own. Our mandate is to bring a transparent, non-partisan call for change that centers the voices of the people most impacted by the child welfare and juvenile justice systems, with an eye to national and state policy. Answering that call requires all hands on deck: courts, legislators, the Agency of Human Services, the governor. Our Office must be fully staffed if we are to be able to fulfill our mandate.

Vermont has a vision of a better system where children and youth live in their homes of origin, families have access to supports and services in their community, and all have a voice in the decisions that affect their lives. This Report presents a roadmap to address Vermont’s significant child welfare challenges, starting with a new data information system and a focus on prevention and support for families. But let’s be honest—what we need is not more recommendations, study committees, or rhetoric.²⁴³ What we need is a shift in belief, and a belief in implementation. We need courageous policymaking, a “collective change in mindset.”²⁴⁴



3 Appendices

3.1 Complaints/Referrals





3.2 Child, Youth, and Family Advisory Council

The Child, Youth, and Family Advisory Council was created by Act 129 of 2022 to provide advice and guidance to the OCYFA. The Council consists of nine stakeholders who have been “impacted by child welfare services provided by the Department for Children and Families.” According to the statute, the Advisory Council’s membership “shall reflect the growing diversity of Vermont’s children and families, including individuals who are Black, Indigenous, and Persons of Color, as well as with regard to socioeconomic status, geographic location, gender, sexual identity, and disability status.”²⁴⁵

The Council met four times in 2023. Below are the major themes discussed:

1. Timelines of investigations and cases are frequently longer than policy dictates.
2. DCF workers should “sit with more risk” to prevent the trauma of removal.
3. Case plans often hold reiterated historical information, making it difficult to move past historical events and focus on current positive gains. There is a sentiment that no matter what, DCF will maintain custody of children.
4. Need for more in-depth training of DCF workers from people with lived experience.
5. Challenges with correcting information in the court record.
6. Significant barriers to appealing substantiations and due process issues.
7. The need for more peer supports for parents, including during the investigation stage, and recovery coaches for parents with substance use disorder.
8. Recommendation of working with the Social Equity Caucus to identify harm happening in the system and collaborate with stakeholders.
9. The Advisory Council expressed the overlap between domestic violence and involvement with DCF needs greater attention.
10. Need for supporting parents with disabilities.
11. CHINS reform alignment and focus on treatment court and peer support.

3.3 Notifications from DCF

33 VSA § 3206 requires the following notifications to the OCYFA from DCF:

- (a)(1) all incidents of actual physical injury to children or youths in the custody of the Commissioner or at significant risk of such harm; and
 - (2) instances of restraint or seclusion of any child or youth in custody of the Commissioner.
- (b) The Department shall notify the Office within 48 hours of any fatality of a child or youth in its custody.



NOTIFICATIONS OF INJURY OR SIGNIFICANT RISK OF INJURY

DCF began sending these notifications almost immediately upon OCYFA's startup of operations. DCF sent approximately 30 notifications of injury or significant risk of injury to children in DCF custody. These ranged from broken bones to stitches to major head injuries. The OCYFA now receives regular updates on children who have run from DCF custody.

NOTIFICATIONS OF RESTRAINT OR SECLUSION

The OCYFA received just one batch of restraint and seclusion data regarding one residential treatment program in 2023, comprising 92 individual incidents of restraint.

NOTIFICATIONS OF FATALITIES

Thankfully there were no fatalities of children in DCF custody in 2023.



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5 Endnotes

All source documents can be found at childadvocate.vermont.gov/2023sources.

¹ For Housing First principles, see (National Alliance to End Homelessness) and (Pathways Vermont).

² See (Spectrum Youth & Family Services).

³ For baby bonds, see (Markoff, Ain and Chelwa).

⁴ See (Child Welfare Information Gateway 8-9).

⁵ See (University of Vermont Department of Education and Social Services 7), recommending “upstream” strategies, such college tuition for birth parents and foster parents to enter Title IV-E training degree programs, certificates and training opportunities for paraprofessionals and teachers in trauma-informed instruction, and foster parent/birth parent mentoring programs.

⁶ (Public Consulting Group).

⁷ (State of Vermont Agency of Human Services Division of Rate Setting).

⁸ For language suggestions, see (National Center for State Courts 32). Generally, see (National Council of Juvenile and Family Court Judges) and (National Association of Counsel for Children).

⁹ See (National Council of Juvenile and Family Court Judges 39) and (National Association of Counsel for Children).

¹⁰ (Vermont General Assembly).

¹¹ Unless otherwise noted, citations for Section 1.1 from 33 VSA § 3201 et seq.

¹² 33 VSA § 3203(a)(6).

¹³ The statute does not define “placement.” In fact, although “placement” is used repeatedly throughout the relevant chapters of Title 33—notably Chapter 49 (Child Welfare Services), Chapter 51 (General Provisions), Chapter 52 (Delinquency Proceedings), and Chapter 53 (Children in Need of Care or Supervision or “CHINS”)—none of these chapters contains an explicit definition. 33 VSA § 3203(a)(6)(A). See also, Chapter 32 of Title 33 of the Vermont Statutes Annotated. Foster care, in general, is one “placement” whose conditions we discuss below. But “conditions of placement” is perhaps more usefully seen as the continuum of services, actions, and physical spaces that are available to Vermont’s most vulnerable children, youth, families. When considering these systems broadly, “conditions of placement” includes economic supports, prevention services, including families of origin, homes of kin, foster care homes, residential treatment programs, hotels, detention facilities, hospital emergency rooms, DCF offices, and... Most live in Vermont, but many live out of state, in places as far flung as... The children, youth, and families involved with Vermont’s child protection and juvenile justice systems spend their time in a wide array of physical spaces,

¹⁴ 33 VSA § 3203.

¹⁵ “Home of origin” is a term generally indicating the home in which a child grows up prior to any involvement with the child safety mechanisms of the state (i.e. DCF). For many children, their “home of origin” may not be with their biological parent or parents, but rather with their grandparents, aunts and uncles, siblings, “aunties,” or other community members.

¹⁶ See (Child Welfare Information Gateway 4). See also (Trivedi 529), including one child who summarized their life in foster care as follows: “[F]oster care is just sick! . . . You get taken away from your parents. It ruins your life! Your heart is totally destroyed, and the only thing that is left working in your body is your brain. . . . That is why I want out of this foster care right now.”

¹⁷ The federal Department of Health & Human Services Children’s Bureau recently updated its mission statement to emphasize the importance of keeping children in their families of origin, because “children must be kept in their communities and schools.” (U.S. Department of Health & Human Services, Administration for Children and Families).

¹⁸ See, e.g., (Lehrer-Small).

¹⁹ (United States Census). Recently published data put Vermont’s rental vacancy rate at 3.5% and its owner rate at 0.7% for 2022. (Black-Plumeau).

²⁰ (U.S. Department of Housing and Urban Development 18).



²¹ (U.S. Department of Housing and Urban Development 28).

²² (Building Bright Futures 9).

²³ (Lehrer-Small).

²⁴ (Vermont General Assembly).

²⁵ 415 children out of 1428 (1013 adults + 415 children). (Department for Children and Families Economic Services Division) .

²⁶ Calculation based on OCYFA internal data comparisons.

²⁷ (Building Bright Futures 9).

²⁸ See (Duffort, In housing program, motels named their price. What did Vermont’s most vulnerable get in exchange?), (Edgar), (Duffort, As pandemic-era motel programs end, tenants struggle to claim their deposits).

²⁹ (Department for Children and Families Economic Services Division 7).

³⁰ (Cusick 21): “Children of child welfare-involved families who face housing instability and receive a supportive housing program (housing voucher + case management) experience...Fewer removals (9% vs. 40% in business-as-usual control group after 2 years)...Lower prevalence of substantiated maltreatment (8% vs. 26% in control group after 18 months)...Increased reunification (30% vs. 9% in control group after 2 years).”

³¹ For example, “the DCF Family Supportive Housing program aims to reduce the incidence and duration of family homelessness in Vermont by supporting families with minor children who are homeless to identify and maintain affordable housing through intensive, home-based case management and service coordination. Referrals are prioritized through the local Coordinated Entry process and involvement with the Family Services Division is one of the factors of that prioritization process. In state fiscal year 2024, the DCF Office of Economic Opportunity has implemented a significant expansion of the program, increasing the caseload capacity from a maximum of 270 families at any point in time to a new maximum of 435 (increasing again to 480 in 2024 with new contracts in three districts.” (Department for Children and Families Office of Economic Opportunity).

³² (Department for Children and Families Economic Services Division 3).

³³ (Department for Children and Families Economic Services Division 7). ESD workers “find it challenging to do their best work when they fear being harmed or are being questioned in such a way that assumes they have carried out the rules incorrectly.”

³⁴ (Department for Children and Families 4).

³⁵ “Over the past school year and summer, DCF and the Agency of Education have collaborated supported 800 children in out-of-home care through the Family Services Division in receiving Pandemic EBT or P-EBT. A total of \$86,030 was issued in food benefits to replace missed meals during the school day due to COVID-related absences as well as a summer food benefit. Promoting food security positively impacts children’s development and well-being, a goal of both agencies.” DCF email to OCYFA, November 27, 2023.

³⁶ See (National Alliance to End Homelessness) and (Pathways Vermont).

³⁷ For one story about how disability affects child welfare, see (Hall).

³⁸ See (Public Consulting Group 9).

³⁹ Because of the relatively small number of children discussed in this section, we have generally omitted identifying details to protect privacy.

⁴⁰ Internal DCF data obtained by OCYFA.

⁴¹ See (Pulcini).

⁴² See (Public Consulting Group).

⁴³ See (University of Vermont Department of Education and Social Services 48-53) for research mentioned in this paragraph.

⁴⁴ See DCF Family Services Policy 126, Reinstatement of Parental Rights, which reads, “At times, the division has been unable to establish legal permanency for a child who is legally free for adoption. In some situations, the child may have been adopted but the adoption subsequently dissolved... Additionally, youth may display signs that it is appropriate to explore this option, such as talking about wanting to return home or running away to family members.” The need to generate a policy with such significant implications is also an indication of the importance of



prevention services. This is an area the OCYFA plans to explore further in 2024. (Department for Children and Families).

⁴⁵ (Cancel).

⁴⁶ “The state has 1,046 children in the foster system and 1,135 foster homes with a total of 1,890 beds. That’s down from 1,420 homes and 2,325 beds before the pandemic in 2019.” (Cohen). See also (Lefrak and Laurion).

⁴⁷ 900 foster homes may sound like a lot of potential placements, especially given that as of October 1, there were under 1000 children in state custody. But not all of these families can actively accept foster placements, and making sure the families and the children are a match is also important. As one DCF official said this summer, “Thinking about how many families we actually need in order to say, ‘Sarah just came into custody, let’s explore these 10 families. This one’s in her school district. This one is into soccer...’ You know, all of the things that really make up a family.” (Cooney, Vermont in need of more foster parents).

⁴⁸ (Cooney, Vermont in need of more foster parents).

⁴⁹ DCF did mention this topic briefly in recent testimony, but did not elaborate. See “A healthy system of care serving both child welfare and juvenile justice populations relies upon a network of home, ‘homelike’, community-based, residential, and stabilization settings.” (Department for Children and Families 2). See also (Child Welfare Information Gateway) for multi-generational approaches to kin care.

⁵⁰ Citations this section based on (Gupta-Kagan) and (Casey Family Programs) unless otherwise noted.

⁵¹ For example, it is unclear whether families with safety plans are included in the 150 families receiving “ongoing services” described above.

⁵² (Gupta-Kagan 841).

⁵³ “It is as if a police department investigated a crime, concluded an individual was guilty, did not file charges or provide him with an attorney, and told him he had to agree to go to jail for several weeks or months, or else it would bring him to court and things could get even worse” (Gupta-Kagan 843).

⁵⁴ The original DCF intake had over 12 days of added information from multiple reporters, making it difficult to follow the documented facts. The photographs, media, and text messages related to the original allegations within this intake were unable to be saved directly to the intake in FSDNet. They had to be emailed to Centralized Intake and Emergency Services, who then manually disseminated them to the district office assigned. It appears that law enforcement had more information about the informal placement than DCF.

⁵⁵ See (University of Vermont Department of Education and Social Services 24).

⁵⁶ (Vermont Child Welfare Training Partnership).

⁵⁷ (U.S. Department of Health & Human Services, Administration for Children and Families 10).

⁵⁸ (Annie E. Casey Foundation).

⁵⁹ (Annie E. Casey Foundation).

⁶⁰ “Many of the stakeholders felt that youth who were minorities or LGBTQ particularly struggled to access cultural enrichment activities. One of the stakeholders particularly mentioned that homelessness prevention is a focus of DCF-FSD, but that many young people still become homeless. However, homelessness is not reported by DCF-FSD. One of the stakeholders shared that mental health services were a challenge for young people since they ‘do not want to label a young person with a diagnosis just to receive services.’ They particularly mentioned that housing, and substance abuse and mental health services, are a major hurdle for young people, especially for adjudicated youth and pregnant and parenting youth. The main issue pertaining to housing for dually adjudicated youth is that many housing programs will not accept young people depending on their charges, creating a systemic barrier that prevents housing stability.” (U.S. Department of Health & Human Services, Administration for Children and Families 11). See also (Cooney, Area shelters see increased demand for homeless youth services): “They say they often notice these young people [experiencing homelessness] are coming out of DCF, have developmental disabilities, or struggle with mental illness.”

⁶¹ (U.S. Department of Health & Human Services, Administration for Children and Families 11).

⁶² Citations this paragraph from (Bradybury-Carlin, Pinkham and Redmond).

⁶³ Citations this paragraph from (Spectrum Youth & Family Services).

⁶⁴ See (Spectrum Youth & Family Services).



⁶⁵ We feel it necessary to include quote marks for some terminology in this section because of the unestablished or unclear definitions of many of these terms.

⁶⁶ DCF email to OCYFA 11.17.23.

⁶⁷ OCYFA review of internal DCF data. See also (Cancel) for nationwide numbers: “In the most recent available data, published in June 2020, there were over 43,800 children living in foster care institutional placements in the United States. And Black youths are disproportionately placed in institutions.”

⁶⁸ OCYFA review of internal DCF data.

⁶⁹ See (Pulcini): “In a sample representing approximately 200 children with mental health concerns waiting in 8 EDs across Vermont over the last year, we have found that the most common concern was suicidal ideation, suicidality, or suicide attempt (47%), with 78% being diagnosed with suicidality as their disposition diagnosis. Most others appear to be younger children with aggression. The average length of stay in the ED was 4 days for all sites among these 200 children. This is preliminary data and we are expecting 12 hospitals to ultimately participate with detailed patient level information on wait times, concerns, medications, and restraint use for children in EDs across the state. Whether it’s born of the data I’ve collected or my experience providing care, one thing is absolutely certain: the ED is not the appropriate setting for children to get comprehensive, acute mental health services. We have contributed a host of human resources to optimize what we have, going far beyond expectations in many instances. We have done this because watching children wait in the ED day after day, confined to their room due to necessary COVID-19 protocols, is extraordinarily disheartening to all individuals who bear witness to this unfortunate circumstance. Children should be in school, learning. Children should be at home, developing. And when needed, children should receive appropriate mental health services in the right setting at the right time to get back to the aforementioned activities.”

⁷⁰ (Vermont Association of Hospitals and Health Systems 5).

⁷¹ (Child Welfare Information Gateway 3).

⁷² Unless otherwise noted, numbers in this section are from email from DCF to OCYFA, 11.2.23. “High-level DCF involvement” includes “Family Support Cases,” Conditional Custody Orders, youth on probation or in the delinquency system with no DCF custody, or “child behavior—no custody” cases. Family services category is a family count, child count numbers are estimated.

⁷³ “Staffing” numbers this paragraph from (Casanova and Howard) and email from DCF to OCYFA, 11.18.23. Shifting of employee and 2023 stop of count information from email from DCF to OCYFA, 11.20.23. Child welfare reporting hotline call center otherwise known as Centralized Intake and Emergency Services or “CIES.”

⁷⁴ Children in foster care per 1,000 this paragraph from (Child Trends). The Annie E. Casey Foundation ranks Vermont 4th overall in child well-being. These other states average 27. The rank of the comparison states are: MO #28, ND #11, KY #40, AZ #39, IN #24, KS #17, SD #23, TN #36. See (Annie E. Casey Foundation).

⁷⁵ Ratio of 2.2 to 1. (Children’s Defense Fund 29). See also, “In Vermont in 2019, non-Hispanic/Latino White children entered foster care at a rate of 6.4 per 1,000, and the rate for non-Hispanic/Latino Black children was 9.6 per 1,000.” (University of Vermont Department of Education and Social Services 54). Given Vermont’s problems with data, outlined throughout this Report, these numbers likely skew low.

⁷⁶ See (Morris).

⁷⁷ For caseworker statistics, see (University of Vermont Department of Education and Social Services 75). For racial percentages of Vermont’s children, see (Children’s Defense Fund 1). Hispanic or Latinx children entered custody within a year of a report at a disproportionately high rate (14.0%) compared to 9.4% of non-Hispanic or Latinx children, according to (University of Vermont Department of Education and Social Services 85). Between 2005 and 2018, Black or African American children were more likely than other children to enter custody within a year (14.2% vs. 9.2%). (University of Vermont Department of Education and Social Services 86).

⁷⁸ U.S. Census as cited in (ECOS).

⁷⁹ (Annie E. Casey Foundation 21).

⁸⁰ According to one recent DCF estimate, 20% of cases filed in the juvenile justice system are missing race and ethnicity information.

⁸¹ See (Keck) and (Vermont General Assembly). There was a third death in 2014 as well. See also (Krantz).



⁸² (Vermont General Assembly).

⁸³ (Vermont General Assembly).

⁸⁴ See (Vermont Child Fatality Review Team) and (U.S. Department of Health & Human Services, Administration for Children and Families).

⁸⁵ See, e.g., (University of Vermont Department of Education and Social Services), (National Center for State Courts), and (CHINS Reform Workgroup).

⁸⁶ In an April 20, 2023 email to OCYFA, DCF gave four main reasons for Vermont’s high number of calls and of calls screened out: “Unlike other states, VT’s child protection, juvenile justice, and adolescent services systems are merged into one department. The VT child protection hotline receives calls about delinquency, youth with high-risk behaviors and other juvenile services issues. These calls are documented into our child abuse reporting system for abuse/neglect review but are typically ‘screened out’ for child abuse and referred to the district offices for juvenile service consideration...VT is one of a few states that investigates allegations of sexual abuse by out-of-home alleged perpetrators. This may include allegations of adolescent sexting and of children and adolescents with sexually harmful behaviors. A consequence of this policy is that normative child and adolescent sexual behaviors are often reported to the hotline, which becomes another cohort of report types that are typically screened out...VT law requires that mandated reporters must individually report concerns of child abuse, even with confirmation that the report has already been made, which leads to duplication of reports. For example, if a disability determination specialist reads a medical file that indicates a child was abused and a report was made, the determination specialist is now aware of the abuse and makes a duplicate report...Due to limits in technology, there is no other mechanism to document calls to the hotline, therefore most calls of concerns are entered into a report. Unlike many other states, there is no alternative document or pre-screening to determine if a concern warrants a report to be submitted into our reporting system.”

⁸⁷ (U.S. Department of Health & Human Services, Administration for Children and Families). See also (University of Vermont Department of Education and Social Services) regarding a “vicious cycle,” in which, following internal and external investigations prompted by media attention and political action, some staff members are demoted or fired while the rest of the agency begins making more conservative decisions. This pattern leads to a sudden increase in foster care entry rates (“foster care panic”). Many resulting policy changes emphasize heightened accountability, which increases paperwork requirements, and alongside continued negative media coverage, staff morale wanes, and staff turnover increases. As time progresses, public outcry diminishes into what Chenot deems “business as usual” until another high-profile case occurs, which triggers the cycle to recommence.” (University of Vermont Department of Education and Social Services 71-73).

⁸⁸ Unless otherwise noted, data this paragraph comes from (Child Trends) and (U.S. Department of Health & Human Services, Administration for Children and Families 21). According to an email from DCF on 11.22.23, the reporting numbers for 2023 thus far are similar to those of the previous years: 17,978 calls came in from January 1, 2023 through November 15, 2023 compared to 17,478 calls between January 1, 2022 and November 15, 2022.

⁸⁹ (University of Vermont Department of Education and Social Services 44).

⁹⁰ (Raz).

⁹¹ (Raz).

⁹² (Child Trends).

⁹³ i.e. a ratio of 2.2 to 1. (Children's Defense Fund 29).

⁹⁴ (Building Bright Futures 8).

⁹⁵ (Building Bright Futures 8).

⁹⁶ See (Cusick 6-8): “If low-income families experience at least one material hardship (instability in food, housing, utilities, or medical care), they are at least three times more likely to be investigated for abuse or neglect. If they experience multiple types of material hardship, they are at least four times more likely to be investigated...Material hardship and economic factors are associated with child welfare involvement even after accounting for factors related to poverty, such as psychological distress or other parenting behaviors.” Citations this section from (Chapin Hall at the University of Chicago) and (Cusick) unless otherwise noted.

⁹⁷ (Cusick 3).



⁹⁸ (Building Bright Futures 8).

⁹⁹ See (Chapin Hall at the University of Chicago).

¹⁰⁰ (University of Vermont Department of Education and Social Services 35).

¹⁰¹ (Child Welfare Information Gateway 8).

¹⁰² (University of Vermont Department of Education and Social Services 35).

¹⁰³ (Anderson 1). See also (Cusick): An additional \$1,000 unconditional cash payment to families in the early months of a child's life is estimated to: Reduce the likelihood of a CPS referral for neglect by 10% (by age 3), Reduce the likelihood of a CPS referral for physical abuse by 30% (by age 3), Reduce the likelihood of a substantiated CPS referral by 15% (by age 3), Reduce the likelihood of child mortality by 30% (3 fewer child deaths) (by age 5).

¹⁰⁴ (Cusick 18).

¹⁰⁵ (University of Vermont Department of Education and Social Services 74).

¹⁰⁶ See, e.g., (Building Bright Futures i).

¹⁰⁷ (Building Bright Futures 7), citing census data.

¹⁰⁸ TANF stands for Temporary Assistance to Needy Families. It is federally funded cash assistance to families with children, formally called "welfare."

¹⁰⁹ (Building Bright Futures 10).

¹¹⁰ (Building Bright Futures 10). Figure is for Chittenden County. Prior to a 2021 adjustment, it had been only \$867.

¹¹¹ (Chapin Hall at the University of Chicago 15), asserting that Vermont has created an "economic firewall" for poverty-related neglect.

¹¹² (Chapin Hall at the University of Chicago 15).

¹¹³ (Child Welfare Information Gateway 4).

¹¹⁴ (Office of the California Surgeon General xxvii). "Subsequent studies have found a higher prevalence of ACEs in individuals who are racially marginalized (Black, Latinx, Native American, or multi-racial), high school nongraduates, unemployed or unable to work, in lower income brackets, uninsured or underinsured, involved in the justice system, women, and/or identify as lesbian, gay, or bisexual."

¹¹⁵ (Building Bright Futures 2).

¹¹⁶ For baby bonds, see (Markoff, Ain and Chelwa).

¹¹⁷ See (Child Welfare Information Gateway 8-9).

¹¹⁸ (United States 115th Congress).

¹¹⁹ (United States 115th Congress § 50702).

¹²⁰ (Department for Children and Families 2).

¹²¹ (University of Vermont Department of Education and Social Services 32).

¹²² (University of Vermont Department of Education and Social Services 32-35).

¹²³ For example, another recent proposed rule aims to ensure safe and appropriate placements and services for children in foster care who identify as LGBTQI+, including in their relationships with kin: "Federal law also requires that for children ages 14 and over, agencies must consult with them about their case plans. To ensure agencies meet these and other related statutory requirements, ACF proposes to specify the steps agencies must take when implementing the case plan and case review requirements for children in foster care who identify as lesbian, gay, bisexual, transgender, queer or questioning, intersex, as well as children who are non-binary, or have non-conforming gender identity or expression (all of whom are referred to under the umbrella term LGBTQI+ for purposes of this regulation)." (U.S. Department of Health & Human Services, Administration for Children and Families).

¹²⁴ (Center for the Study of Social Policy 1).

¹²⁵ (Center for the Study of Social Policy 1-2).

¹²⁶ (U.S. Department of Health & Human Services). In this context, fictive kin (non-relatives with whom a child has an emotionally significant relationship) are grouped with kin. "Non-relative" foster homes are homes of unrelated individuals who are not kin or fictive kin. "The new rule would allow a title IV-E agency to claim title IV-E federal financial participation (FFP) for the cost of foster care maintenance payments (FCMP) on behalf of an otherwise eligible child who is placed in a relative or kinship licensed or approved foster family home when the agency uses



different licensing or approval standards for relative or kinship foster family homes and non-relative foster family homes.” (U.S. Department of Health & Human Services 9411).

¹²⁷ (Fitzgerald).

¹²⁸ Citations this paragraph from (Fitzgerald).

¹²⁹ “More than one of the parents who participated in the interviews stated that they had originally reached out to DCF to obtain behavioral health services for their children.” (National Center for State Courts 27).

¹³⁰ Shana Hunts Along, birth parent (Minnesota), (U.S. Department of Health & Human Services, Administration for Children and Families 6).

¹³¹ See (Casey Family Programs): “In 2019, about 1 in 10 young people in foster care in the United States were living in a group or institutional placement setting, but more than 30% of those ages 13 to 18 were in these kinds of facilities. These percentages are higher for Black children, with one-third (33%) of Black teenagers in foster care placed in group or institutional settings.”

¹³² (Casey Family Programs).

¹³³ FFPSA and Title IV-E are complicated and technical. We include a summary here, but there are many nuances not explained in the interest of space.

¹³⁴ 42 U.S.C. § 672; 42 U.S.C. § 675a(c); (Department for Children and Families 4-5).

¹³⁵ (Department for Children and Families Family Services Division 53).

¹³⁶ To the data system, DCF added other factors that have contributed to the lack of QRTPs in Vermont: federal accreditation practices that are selective, lack of court capacity to accommodate additional administrative hearings, lack of independent assessments, reimbursement challenges, such as aftercare, and more. DCF also pointed out that federal Title IV-E eligibility is set to a historical poverty standard, and therefore fewer families are Title IV-E eligible each year. Email response to draft of this Report, December 2023.

¹³⁷ (Public Consulting Group 31).

¹³⁸ (Public Consulting Group 1-4).

¹³⁹ (Public Consulting Group 1-4).

¹⁴⁰ (U.S. Department of Health & Human Services).

¹⁴¹ (U.S. Department of Health & Human Services, Administration for Children and Families), Section 8.1H, Questions #8, #18.

¹⁴² (National Association of Counsel for Children).

¹⁴³ (American Bar Association Center on Children and the Law).

¹⁴⁴ See (University of Vermont Department of Education and Social Services 7), recommending “upstream” strategies, such college tuition for birth parents and foster parents to enter Title IV-E training degree programs, certificates and training opportunities for paraprofessionals and teachers in trauma-informed instruction, and foster parent/birth parent mentoring programs.

¹⁴⁵ (Public Consulting Group).

¹⁴⁶ (State of Vermont Agency of Human Services Division of Rate Setting).

¹⁴⁷ (National Center for State Courts 2; 10).

¹⁴⁸ We focus on CHINS cases in this Report. Domestic docket cases involving allegations of abuse against a parent resulted in multiple calls to the OCYFA in 2023 and will be a focus of the Office in the future.

¹⁴⁹ (State of Vermont Supreme Court).

¹⁵⁰ (State of Vermont Supreme Court 10, 13).

¹⁵¹ (State of Vermont Supreme Court 11).

¹⁵² (State of Vermont Supreme Court 3). Numbers are most recent available, from FY2021. “Judge” numbers include “quasi-judicial” officers, such as Special Masters.

¹⁵³ (State of Vermont Supreme Court 4-5).

¹⁵⁴ (State of Vermont Supreme Court 10).

¹⁵⁵ In Vermont, it is an average of 124 days from the date the petition is filed until the first case plan is filed. (National Center for State Courts 45).



¹⁵⁶ See (National Center for State Courts 45): “nearly half of termination of parental rights (TPR) hearings are cancelled, and in cases where a hearing is cancelled the time to disposition of the TPR is 289 days. Where there is no cancelled TPR hearing, the time from petition to disposition of the TPR is only 178 days.”

¹⁵⁷ See (Vermont Department of Finance & Management - Budget & Management Division 355, 353). Defender General budget summary: “Backlogs are the norm in every court, and the availability of trials and hearing time varies from county to county...Simply put, failure to adequately fund the contracts necessary to provide legal services in juvenile and child protection cases will result in a loss of federal funding due to the delay in resolution of those cases.”

¹⁵⁸ (Vermont General Assembly 97).

¹⁵⁹ (National Center for State Courts 2).

¹⁶⁰ See (National Center for State Courts) and (Vastine, CHINS Reform Workgroup Report).

¹⁶¹ The NCSC makes specific recommendations in the following categories: “Support High-Quality Legal Representation for Parents and Children, Prioritize Meaningful Reasonable Efforts Findings, Support High-Quality Legal Representation for Parents through Transparency, Support High-Quality Legal Representation for Children through Meaningful Engagement and Advocacy, Insist on Timely Hearings, Develop Consensus on Goal of CHINS Cases and Clearly Message It to All Stakeholders, Provide access to technology for virtual hearings, Ensure every hearing is meaningful, Hold merits and disposition on the same day, Ensure data system supports performance measures.” (National Center for State Courts 2-4).

¹⁶² (National Center for State Courts 32).

¹⁶³ (National Center for State Courts 34).

¹⁶⁴ See, e.g., (National Council of Juvenile and Family Court Judges 177), footnote 2: “State and federal law determine who must be present for any hearing to proceed. Noted participants may or may not be required by law; however, as many as possible should be encouraged to attend the initial hearing.”

¹⁶⁵ See, e.g., the website for the American Professional Society on the Abuse of Children.

¹⁶⁶ Vermont’s expressed interest model demonstrates the impropriety of the belief among some GALs, as outlined in the NCSC report, that GAL presence substitutes for the child being there. See (National Center for State Courts 32). See also (National Association of Counsel for Children 7): “Direct representation poses unique challenges for attorneys representing clients with diminished capacity, such as infants and pre-verbal children. In these situations, jurisdictions have adopted different models of representations to accomplish the goal of high-quality legal representation including the best interest, substituted judgment, and legal interest models. Although there are important distinctions between these frameworks, there is also much intersection. For example, a rigorous best interest analysis for an infant necessarily requires the attorney to step outside of their own personal inclinations and attempt to put themselves “in the shoes” of their client. Likewise, it demands review and consideration of all available legal rights and remedies. Importantly, none of these three approaches are immune from subjectivity and bias. Attorneys representing clients with diminished capacity can achieve positive outcomes when they use appropriate resources — training, supervision, multidisciplinary partnership — to address the unique developmental needs of infants and help mitigate implicit and explicit bias. Under any of these models, trauma-informed engagement with the extended family members, consultation with a multidisciplinary legal team, and high-quality supervision and peer consultation are critical tools for attorneys representing clients of diminished capacity.”

¹⁶⁷ (National Association of Counsel for Children 2).

¹⁶⁸ It should be pointed out that this is a self-selecting group—parents who *are* getting the support they need likely have no reason to call our Office. See also (Vermont Parent Representation Center 8): “Families do not have access to accurate information about the child protection system nor effective legal representation.”

¹⁶⁹ The NCSC report heard similar concerns: “Many parents described doing their own research on the CHINS process. They said that no one, neither their DCF case worker or their attorney, described the process or the timeframe to them.” (National Center for State Courts 27).

¹⁷⁰ (Vermont Parent Representation Center 4).

¹⁷¹ The NCSC report found a similar pattern: “[Parents] also stated that they do not have access to DCF reports to the judge and, therefore, do not know what information DCF is telling the judge. It was not clear whether they are not permitted to see the reports or if they need to request them from their attorney and either did not know to or were



not able to.” (National Center for State Courts 27). See also (National Association of Counsel for Children 16-17): “Attorneys for children and youth should only make requests to waive the youth’s presence upon express direction from their client. In considering whether to attend, a client may benefit from legal counseling regarding the purpose and content of the hearing, timing of the hearing, possibility of virtual participation, and likelihood of attendance by other parties. If a child or youth prefers not to attend a court or case event, they should not be mandated to do so; however, they should also be offered alternative means (such as letters or written statements) to express their preferences and requests. An attorney should never assume that a client’s decision not to attend is a statement of disinterest. Although a youth (after thorough client counseling) may choose not to attend court, attorneys should not encourage their absence because of custom, practice, or convenience. Likewise, a proffer or judicial determination that the child or youth will be harmed by attendance at a hearing or court event should be interrogated and tied to legally sufficient evidence — such as independent expert testimony — specific to the case at hand, supporting the child’s exclusion against their wishes. Working within the confines of state law, the attorney should advocate that their client’s presence is only to be waived in exceptional circumstances (if the court finds that the youth has been given adequate notice of a court hearing at a conducive time, offered transportation, and still chooses not to attend, or after the court has received expert testimony and makes a finding that attending would be unduly harmful).”

¹⁷² For language suggestions, see (National Center for State Courts 32). Generally, see (National Council of Juvenile and Family Court Judges) and (National Association of Counsel for Children).

¹⁷³ See (National Council of Juvenile and Family Court Judges 39) and (National Association of Counsel for Children).

¹⁷⁴ (Sexton).

¹⁷⁵ (Department for Children and Families).

¹⁷⁶ (Howard 2).

¹⁷⁷ (Brouwer).

¹⁷⁸ No youth or youth representatives were invited to the 10.26.23 Joint Justice hearing.

¹⁷⁹ See (Fostering Court Improvement).

¹⁸⁰ See (Office of Juvenile Justice and Delinquency Prevention (OJJDP)) and (Weinstein).

¹⁸¹ (Loan).

¹⁸² (Loan).

¹⁸³ (Loan). There is also evidence to show that even these numbers may be inflated—it is possible that young people are overrepresented in arrest data because brain science indicates that kids are more likely than adults to offend in groups—and also more likely to get caught than adults. See (McNamara).

¹⁸⁴ See (Weinstein).

¹⁸⁵ See (Vermont Department of Health).

¹⁸⁶ (Vermont Department of Health 3): “One in five LGBTQ+ students (20%) and 23% of BIPOC students have seen someone get physically attacked, beaten, stabbed or shot in their neighborhood compared to 14% of heterosexual cisgender and 14% of white, non-Hispanic students – a significant difference. During the past year, BIPOC students (10%) and LGBTQ+ students (10%) were threatened with a weapon such as a gun, knife or club on school property – significantly more than white, non-Hispanic students (6%) and heterosexual cisgender students (6%).”

¹⁸⁷ Youth who are maltreated are more likely than non-maltreated youth to have contact with the juvenile justice system. Unless otherwise noted, citations this paragraph are from: (Office of Juvenile Justice and Delinquency Prevention (OJJDP)).

¹⁸⁸ (McNamara): “An array of studies has shown that people with significant trauma histories can be overly motivated by short-term reward at the expense of weighing the possible cost” (internal citation omitted).

¹⁸⁹ “The state of Vermont was out of compliance for the sight/sound core requirement of the JJRA, resulting in a 20% reduction in funds. This is a reduction of approximately \$120,000.” See (Vastine, 2022 Annual Report Children and Family Council for Prevention Programs Vermont State Advisory Group on Delinquency Prevention 7).

¹⁹⁰ See (Act 4 Juvenile Justice 2).

¹⁹¹ See (Brouwer). As of the date of publication of this Report, this youth has been living safely at home with his parents since his arrest.



¹⁹² (The Imprint Staff Reports).

¹⁹³ (Morris 11). See also (Office of Juvenile Justice and Delinquency Prevention (OJJDP)).

¹⁹⁴ (Vermont General Assembly).

¹⁹⁵ (Vermont Citizens Advisory Board 1).

¹⁹⁶ (Duffort, Vermont’s foster care IT system predates the internet — and puts kids at risk).

¹⁹⁷ Unless otherwise noted, citations this paragraph from personal conversation with DCF official, October 31, 2023.

¹⁹⁸ (Duffort, Vermont’s foster care IT system predates the internet — and puts kids at risk).

¹⁹⁹ (U.S. Department of Health & Human Services, Administration for Children and Families) and (Vermont Citizens Advisory Board).

²⁰⁰ (U.S. Department of Health & Human Services, Administration for Children and Families).

²⁰¹ (Vermont Department of Finance & Management - Budget & Management Division 799-881, 351-390).

²⁰² See (Vermont Legislative Joint Fiscal Office).

²⁰³ DCF’s mission is “to foster the healthy development, safety, well-being, and self-sufficiency of Vermonters.” See DCF website.

²⁰⁴ Figures cited here are from meeting with DCF officials and Justices from the Vermont Supreme Court, October 16, 2023.

²⁰⁵ See generally (Duffort, Vermont’s foster care IT system predates the internet — and puts kids at risk).

²⁰⁶ The 2021 UVM Drivers of Custody report found that “a comprehensive data system would likely facilitate more data-driven practice, lead to more efficient casework, and decrease confirmation bias or ‘hunch-based’ custody decisions that can be steeped in racial and socioeconomic bias.” (University of Vermont Department of Education and Social Services 28).

²⁰⁷ One response we heard more than once was essentially, “Do you have any idea how many data systems within AHS need to be updated?!” In response, we might ask, is there any other system that is as important as this one? Is there any other way to spend money that would have a bigger impact?

²⁰⁸ Information in this section based on discussions with DCF officials unless otherwise noted.

²⁰⁹ (Vermont Legislative Joint Fiscal Office). While the referenced budget and federal claiming information provide some insight into lost federal revenue, it is unfortunately very challenging to calculate the exact impact due to inadequacies of the current data system—a circular problem.

²¹⁰ (Vermont Department of Finance & Management - Budget & Management Division 839).

²¹¹ Figures are drawn from an internal OCYFA review of the State of Vermont’s quarterly CB-496 submissions for foster care, which claim Title IV-E reimbursement for allowable activities. Data points from line item 1c “Agency Maint. Payments- Non-specified Setting Child Care Institution.”

²¹² 42 U.S.C. § 675. Additional information available at (U.S. Department of Health & Human Services, Administration for Children and Families), Section 8.3B.1.

²¹³ 45 CFR § 1356.60; (U.S. Department of Health & Human Services, Administration for Children and Families), Section 8.3B.1.

²¹⁴ (U.S. Department of Health & Human Services).

²¹⁵ (American Bar Association Center on Children and the Law).

²¹⁶ See (Child Welfare Information Gateway).

²¹⁷ (U.S. Department of Health & Human Services, Administration for Children and Families)

²¹⁸ (National Center for State Courts 9).

²¹⁹ (University of Vermont Department of Education and Social Services 137). “As previously mentioned, data on service provision was not captured in a systematic way. These data were found in narrative form in affidavits but were time intensive to identify for the purposes of a case review.” (University of Vermont Department of Education and Social Services 141). See also (Vermont Parent Representation Center 9), alleging that DCF “writes investigative reports that are often poor in quality and accuracy, contain misinformation and outdated material, and are often based on assumptions rather than facts, yet these reports serve as basis for DCF affidavits and CHINS petitions.”

²²⁰ See, e.g. 33 VSA § 3203.

²²¹ 33 VSA § 3206.



²²² (Vermont Parent Representation Center).

²²³ (Vermont Parent Representation Center 19-24).

²²⁴ See 33 VSA § 4916b, Vermont Rule of Appellate Procedure Rule 13, 3 V.S.A. § 3091.

²²⁵ For example, it appears that at least 40% of VPRC's 30 cases reviewed involved teens. It would be useful to analyze these cases to understand the supports the families and youth need.

²²⁶ (University of Vermont Department of Education and Social Services 127).

²²⁷ We expected to get four or five replies. We got 30.

²²⁸ Quotes this section from internal survey.

²²⁹ Personal correspondence with DCF official, 11.6.23.

²³⁰ "Appends" were present in 13% of OCYFA intakes.

²³¹ (University of Vermont Department of Education and Social Services 141).

²³² Citations this paragraph from (University of Vermont Department of Education and Social Services 136). In an email in response to a draft of this Report, DCF said that they have addressed and corrected this problem.

²³³ Email DCF to OCYFA.

²³⁴ 178 FSWs x 50 weeks x 2 hours = 17800 hours x \$38. See (ZipRecruiter).

²³⁵ Email DCF to OCYFA.

²³⁶ Personal communication, DCF to OCYFA.

²³⁷ This paragraph based on personal communications with DCF.

²³⁸ See (Benninghoff).

²³⁹ (Benninghoff).

²⁴⁰ (Gholston).

²⁴¹ (Vermont Child Welfare Training Partnership).

²⁴² In-person presentation, Burlington, Vermont, December 4, 2023.

²⁴³ "Between 2009 and 2018, 32 reports regarding child welfare were submitted to the Vermont state legislature," with an additional 12 from DCF. (University of Vermont Department of Education and Social Services 74-75).

²⁴⁴ (U.S. Department of Health & Human Services, Administration for Children and Families 3).

²⁴⁵ 33 VSA § 3205.