

# **The Children's Code Reform Task Force**

Draft legislation, recommendations, and future work

**Cristen Conley, JD, CWLS, Chair - Director, Corinne Wolfe Center for Child and Family Justice  
(505) 277-5933 or [conley@law.unm.edu](mailto:conley@law.unm.edu)**

**Tony Ortíz, JD, Staff**

**Leslie Jones, JD, CWLS, Member – Director, Legal Services Division of the Office of Family  
Representation and Advocacy**

## **Funded by appropriation to the AOC in 2022 and 2023**

- To assess the Children's Code and recommend changes
- Interdisciplinary membership with subject matter expertise and statewide representation
- 2 periods of activity – 5 months in 2023 under the AOC followed by 5 months in 2024 – under the Corinne Wolfe Center for Child and Family Justice
- Dedication to as open a process as possible - resolution
- Besides monthly task force meetings, committees and subcommittees met once or twice a month
- Pending a small grant from the Annie E. Casey Foundation to address some recommendations in the next 4 months

## Draft amendments to statutes re poverty

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- Modify definition of neglected child to: remove poverty alone as a reason for removal,
- Upon removal, charge CYFD with assessing family for need, and providing resources as possible, with court report to include what conditions other than poverty that led to removal
- CYFD to not use children's own assets to pay for CYFD or foster care expenses, to pursue such assets for eligible youth and children, and to set up STABLE accounts for such children

## Draft amendments to statutes re time limitations

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- Adjudications to be completed within 90 days (maintain commencement of trials within 60 days of service on parent, guardian, or custodian)
- “Circumstances beyond the control of the parties or the courts” to be considered and dismissal with prejudice if time limits not met
- Judicial reviews to be held every 3 months if permanency plan is still reunification or “another planned permanent living arrangement”
- Simplification of calculation when first permanency hearing to occur with subsequent permanency hearings to be held every 3 months if permanency plan is still reunification or “another planned permanent living arrangement”

## **Draft amendments to statutes re access to deadly weapons**

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- Modify definition of neglected child to add negligent unsupervised access to firearms or other deadly weapon
- Bennie Hargrove Gun Safety Act makes it a crime to negligently make a firearm available to a minor
  - Exceptions under this could be considered in determining negligence

## **New Act – Crossover youth**

Crossover youth are in foster care and have juvenile justice charges

- Improve tracking of these youth to improve service provision
- Create crossover youth program within CYFD
- Train judges, CYFD, LOPD, and other CYFD staff
- Require inter-agency collaboration
- Require notice to parents, guardians and custodians, CYFD protective Services, and youth or child's attorney or GaL in foster care case
- Reasonable efforts by JJ division of CYFD to help youth complete probation

## **New Act – Reinstatement of parental rights**

For the occasional case where it would be in the best interest of a child or youth to have a parent's rights reinstated.

- Requires material change in circumstances showing parent can provide safety and stability for child
- Petition may be filed by child, former parent, or CYFD
- Adoptive parent or guardian must consent
- Only if 12 months post Termination of parental rights and all appeals barring certain circumstances
- CYFD must still investigate any new allegations

**Recommendations**

**For the Executive**

- Support and create ways to collaborate with other groups
- Develop policies to provide funds to a family in lieu of foster care

**For the Legislature**

- Annual training about child and family welfare
- Modify definitions and language
- Consider modification to FINCOS

**For the Judiciary via the Children’s Court Rules Committee**

- Develop rules in alignment with suggested changes to the law
- Require consultation between judges when there are time conflicts
- Better clarify processes for notice by publication as well as service
- Improve notice of change of placement



**For more than one branch of government**

- Further study on confidentiality on protective services cases
- Explore if Kinship Guardianship Act funding can be provided to guardians without a family being involved in the abuse and neglect system
- Study the need for any changes to the Safe Haven for Infants Act
- Begin a Universal Basic Income pilot program (guaranteed minimum income)
- Reform child and family welfare via a collaborative, three-branch approach
- Develop policies to use state and federal funds for concrete supports for families
- Collect and analyze robust data to inform this work

**AND**

- Continue funding of the SM 5 and Children’s Code Reform Task Forces and support those groups’ collaboration
- Use individuals with lived expertise as parents or children in the system as well as national experts

**Recommendations**

## **Crossover Youth Fact Sheet\***

The Children's Code Reform Task Force has drafted legislation enacting the "Crossover Youth Act" (COYA). The legislation creates a "Crossover Youth Program" within the Children, Youth and Families Department (CYFD), providing duties for the program, requiring training for the Judiciary, CYFD, the Law Offices of the Public Defender and the Administrative Office of the District Attorneys and requiring intra-agency and interagency collaboration. The COYA is borne from the desire to create better communication and collaboration that will assist high-risk, vulnerable crossover youth and prevent them from being overlooked or getting lost in complex systems.

### **Q: What is a "crossover youth"?**

**A:** A "crossover youth" is a child who is simultaneously involved in both the child welfare and juvenile justice systems, whether or not the child has been adjudicated in those systems.

A child enters the child welfare system, typically, when CYFD receives a report of abuse and neglect and an investigation reveals the need for department involvement. A child enters the juvenile justice system as a result of an arrest or referral for either the commission of a criminal or delinquent act, or an offense related to being a child, such as truancy, underage drinking or drug use, or running away from home. Foster youth are at heightened risk of juvenile justice involvement due to inadequate responses to trauma.

A child is "adjudicated" when a legal process has been used to resolve a dispute or decide a case involving that child.

### **Q: Why is a "Crossover Youth Program" necessary and what will the program do?**

**A:** The program will facilitate communication and cooperation between participants who serve crossover youth, who are some of the most vulnerable and at-risk youth in the state and who require the most intervention to keep them safe. While there are support systems for crossover youth currently in place, the systems and the people who work in them often don't talk to each other. The program is necessary to formalize processes that improve outcomes for these most vulnerable youth, who, without assistance and support, are at a higher risk of struggling, being incarcerated, institutionalized, marginalized and forgotten. Providing services for crossover youth now may also prevent the need for expensive state services such as incarceration and institutionalization to be extended to these youth later in life.

### **Q: How will the program assist a child who is a crossover youth?**

**A:** Because crossover youth are involved in both the child welfare and juvenile justice systems, they are at a higher risk of being overlooked or getting lost. The program, through system communication and collaboration, will provide earlier and continuing identification and tracking of crossover youth, who are often without family support, at a time when they may be most vulnerable and most at risk.

\*This fact sheet was prepared by the Children's Code Reform Task Force (<https://childlaw.unm.edu/childrens-code-reform-task-force/index.html>) and published in June 2024.