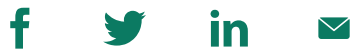


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# Reasonable Efforts as Prevention

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*The U.S. Children's Bureau has shared a [new vision](#) for the child welfare system that emphasizes preventing child maltreatment and the unnecessary removals of children from their homes. Attorneys and judges can leverage reasonable efforts findings as part of child welfare prevention efforts. This article shares how a commitment to making meaningful reasonable efforts findings can fulfill legal mandates and support prevention efforts.*

Far too often the wrong examples drive child welfare policy and practice in the United States.

We see it time and time again in jurisdictions where there is a child fatality; a formulaic response. Negative stories run, resignations are sought, blue ribbon commissions or task forces assembled, recommendations made. Perhaps a new policy is created or law passed to hold folks more accountable—often based on the facts of the most recently publicized tragedy as opposed to data and what we know children and families need. Commonly, there are corresponding spikes in the number of kids removed from their homes, everyone becomes scared and that fear is reflected in social work and legal decision making.

Attention then turns to recruiting more foster homes to place the increasing numbers of kids coming into foster care and we create a demand for which supply will never be adequate. Dockets and caseloads swell, workforce stress and turnover become endemic, and children and parents often do not receive services or supports to meet their needs. Such reactions bring tragic consequences and affect tens of thousands of lives annually-- the unnecessary separation of children from their parents and ensuing trauma. The child welfare system often becomes stuck in this cycle, and it comes at enormous human and financial cost. Yet, we continue to respond in the same damaging and costly way, over and over again.

As a field we know the trauma children experience when separated from their parents is considered a powerful adverse childhood experience that can lead to long-term health, relational, and self-sufficiency challenges. It is also highly traumatic for parents and can trigger relapse or

decompensation for those that may be in recovery or struggling with substance abuse or mental health issues. In other words, fear of making a wrong decision can lead to over removal. Over removal is a near guarantee of harm to a much larger population and perpetuates intergenerational cycles of disruption and maltreatment. This is a quieter, more far-reaching tragedy.

## **Attorneys' Roles in Promoting Reasonable Efforts**

High-quality legal representation for parents, children, and child welfare agencies at all stages of child welfare proceedings is one of the most important systemic safeguards to ensure we keep our eyes on the ball as a child welfare system and avoid unnecessary removal, overly long stays in foster care, and trauma to parents and children.

Attorneys for parents, children, and the child welfare agency are charged with providing information to the judge to guide two critical judicial determinations: the determination that reasonable efforts have been made to prevent removal, and later, if out-of-home placement is deemed necessary, reasonable efforts to finalize the permanency plan. Exercised as statutorily intended, these two findings alone have the potential to dramatically reduce unnecessary family separation, decrease child and parent trauma, promote child and parent well-being, and expedite permanency.

Well-trained child welfare attorneys bring extra sets of problem-solving eyes to assist families and children and the skills to advocate for safety plans, identify strengths, needs, resources, and supports to help keep parents and children safe and together. Attorneys for all parties have the ability to ask what the needs or threats are that have been identified, zealously inquire about efforts to address those needs or threats, provide legal advocacy to ensure those needs are met and threats are addressed to support family resiliency. This is the very substance of reasonable efforts.

However, evidence remains scarce based on round 3 of the Child and Family Services Review, court observation work conducted across the country by Court Improvement Programs, and current trends in child welfare outcome data that either reasonable efforts determination is treated with the rigor or seriousness required under the law. Legislative intent provides adequate context to understand that these legal findings were intended to avoid unnecessary placement and minimize the length of time children and youth spend in foster care. Tying these findings to federal funding in the form of eligibility for title IV-E reimbursement was intended to underscore the significance of keeping families together and preventing unnecessarily long stays in foster care. Unfortunately, tying the findings to funding often leads to the common practice of invoking standard language,

checking boxes, and findings in words only, for fear of a determination leading to financial ineligibility for federal reimbursement for part or all of a child welfare episode.

## Using Reasonable Efforts as a Prevention Tool

For the child welfare system to become one that respects the integrity of the parent-child relationship and seeks to minimize trauma, attorneys must use the tools the law provides and judges must make meaningful judicial determinations.

Attorneys for parents, children, and the child welfare agency can help change the trajectory of child welfare in the United States by:

- 1 Being active voices for preventing the trauma of unnecessary family separation in and out of the courtroom,
- 2 Advocating vigorously for reasonable efforts to be made to prevent removal or for a finding that reasonable efforts have not been made to prevent removal when that is the situation, and
- 3 Where removal is necessary, advocating that reasonable efforts be made to finalize permanency plans and, when not made, advocating for a no reasonable efforts finding.

There must be a unified commitment across the child welfare system to strengthening families through prevention, reasonable efforts to prevent removal and finalize the permanency plan, and providing the services that will become available through the Family First Prevention and Services Act and other sources. These efforts harbor great potential to keep families safely together and help avoid the outlier tragedies that have for too long driven how we serve children and families.

To be clear, the change we need in child welfare will not come from legislation alone. There must be a change of mindset, and support among the legal and judicial community to work further upstream to help prevent the need for children and families ever to enter a courtroom. Reasonable efforts must be treated with the seriousness such findings deserve when legal system contact is made. As we've seen with previous legislation, laws that do not translate into robust practice at best preserve the status quo.

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