



Custody Relinquishment of Children into the Behavioral Health - Child Protection System

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Families should not be faced with the dilemma of relinquishing custody of their child merely because they cannot afford to pay for his or her mental health services. By not providing a safety net of vital mental health services to children from low-income families, the state of Ohio is jeopardizing their future. Families who cannot afford to pay for mental health services for their children either forgo the services altogether for their child or sadly release custody of the child to the state so that the child welfare or juvenile justice system can arrange for the child's needed mental health services. (Treatment costs can be as much as \$1,000 per day). Both of these scenarios are tragic and preventable. If we want to reduce the number of children that enter the foster care and juvenile justice systems, ensuring that all children have guaranteed access to mental health services is a crucial first step.

The Cincinnati Enquirer reported in 2004 that the Ohio Department of Mental Health "estimates that 300 families give up custody of children each year, but advocates who work in the field maintain that 600 is a more accurate number."

While this issue has been identified many times in the past, it has not been adequately resolved largely due to the lack of federal funding sources.

In 2003, a Government Accountability Office report showed that (nationally) approximately 3,700 children were placed in child welfare systems [and] another 9,000 were "placed" in the juvenile justice system by police who had detained children—sometimes at parents' request—for delinquent behaviors that stemmed from or were related to their mental or emotional disorders.

What has already been done resolve this problem?

The U.S. Congress has taken up the issue many times. In 2003 Congress passed the Family Opportunity Act included in the Leave No Child Behind Act of 2003 (HR 936) which gives states the option of allowing certain families with disabled children to buy Medicaid coverage to gain access to Medicaid-financed mental health and other services. In 2005, Congress passed the Family Opportunity Act (FOA), also known as the Dylan Lee James Act, S. 183. On February 8, 2006, the FOA was enacted as part of the Deficit Reduction Act (DRA), Congress' final budget reconciliation. The law expands access to Medicaid for low- and middle-class families, establishes community based waivers for home services for children in institutions, adds immediate Medicaid coverage for newborns with disabilities, and creates Family-to-Family Health Information Centers.

The Ohio General Assembly has also address the issue. Former State Rep. Lynn Olman attempted for years to pass legislation that would make insurance companies fully cover mental health care. State Sen. John Carey has sponsored legislation that would require counties to pay for treatment of mentally ill children - without taking custody away from parents. (Instead, child welfare officials would have to sign agreements that let parents keep custody and have a say in the care their children get at the institutions where they're placed. A court would review the agreements every six months. Parents would be required to help pay for their children's care using a formula that divorce courts use to calculate how much a parent should pay for child support.) Carey says the voluntary agreements could be written to still allow counties to tap into federal funds reserved for children in the government's care. Lastly, in 2009, several versions of the biennial state budget bill, HB 1, required the Office of Family and Children First to collect statistics on a local level of custody relinquishment, but this requirement was amended out of the legislation before it passed into law.

Resources

See: "[Parents Give Up Custody of Children for Mental Health Services, Says New Government Report](#)", *Bazelon Center for Mental Health Law*.

See: "[Mental Care Poor For Some Children In State Custody](#)", *New York Times*

See: "[Desperate Bargain: Custody for Care](#)", *Cincinnati Enquirer*

See: "[What are we going to do about our mentally ill kids?](#)" *Cincinnati Enquirer*