Evidence

Family Is Everything

Lawyers' role in ensuring child welfare. BY SEAN DOOLITTLE '24

Attorneys at child welfare agencies

play an ever-larger role in protecting families nationwide. Massachusetts' triumphs (and occasional struggles) in this realm are a significant bellwether for the nation's ability to care for our children, and lawyers across the Commonwealth have taken steps to bring accountability to our systems, advocate for reform, and pilot initiatives to improve families' lives.

Recently, BC Law alum Erica Brody's law firm reached a historic settlement on behalf of their clients-all former foster children-with the Massachusetts Department of Children and Families (DCF). Not only did the case deliver \$7 million to the plaintiffs for the abuses they endured at the hands of their foster parents; the outcome put the agency on notice that the state's qualified immunity protections that shielded employees from accountability for wrongs done to children in the system's care were not ironclad (page 18).

In Massachusetts, legal services have begun providing so-called "prepetition representation" to families involved in the child welfare system, a relatively new form of preventive legal advocacy aimed at ensuring families remain together when possible, keeping children in their original homes and preventing the need for foster care.

BC Law has been a leader in family law issues for many years. The Youth and Family Justice Clinic, devoted to family advocacy and led by Professor Jessica Berry, provides students the opportunity to work directly with struggling families as they navigate an often-overwhelming child welfare system. The following data (the most recent available) provide a window into understanding the issues facing the modern child welfare system in Massachusetts and beyond.



NATIONAL STATISTICS ON CHILDREN AND FAMILIES (2020°)

407,000 Children in foster care

217,000

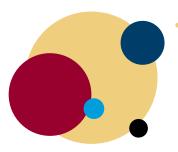
Children who entered foster care in 2020

224,000

Children who left foster care in 2020

1 in 3

Children subject to Child Protective Services (CPS) investigation by age 18



Entering on account of neglect alone 25.6% • Entering on account

of physical or sexual abuse alone 16%

• Entering on account of drug abuse alone 8.5%

• Entering on account of child behavior problems 4%

• Entering on account of the caregiver's inability to cope **3.6**%



Of all Black children are subject to CPS

investigation by age 18



CPS investigations are ultimately unsubstantiated



Boys estimated to experience abuse in US

CHILD SAFETY AND FAMILY JUSTICE IN MASSACHUSETTS (2023)

\$1,361,648,369

+85%

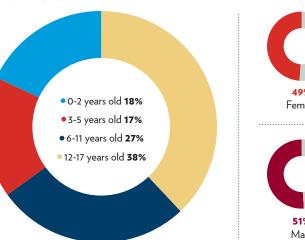
Increase in DCF funding, 2012-2024

3,343

20,686

38,548

Children in DCF Care



80% Children with open DCF cases who remained safely

at home

9,279 Children and young adults in out-of-home placement

Out-of-Home Settings

34% Foster care without kin

with kin

Foster care

Group care

Outcomes

57.7% / Permanent reunification with family

23.3% / Permanent adoption

9.4% / Permanent guardianship

9.5% / Due to emancipation

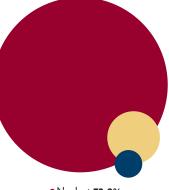
Reports of Abuse and Neglect



Screened-in for further investigation Necessitating emergency response

Maltreatment in Foster Care

Children experienced maltreatment (Children who did not: 98.28%)



• Neglect **72.8**%

Physical Abuse 21.9% • Sexual Abuse 11.5%

(51A is the DCF form used to report suspected child abuse and neglect; report may include more than one allegation, so these percentages will not add to 100%.)

NEW TRENDS FOR FAMILY CARE

Massachusetts has 12 organizations that are part of the PLA National Cohort, defined as preventive legal advocacy and pre-petition national group.

Since 2019, the FIRST Clinic in Washington has used pre-petition representation in over 300 cases. Of those cases, 84% ultimately succeeded in avoiding the filing of a petition.

The Family Defense Team of the **Bronx Defenders avoided petition** filing in 68% of all PLA cases.

The McLennan County Parent Advocacy Program in Texas avoided filing a single petition in all of its Winter 2022 cases after implementing a PLA solution

Oregon's Youth Rights & Justice has implemented a Family Defense Project that has reduced child home removals by over 40%.

Sources: National Children's Alliance and Centers for Disease Control and Prevention: Massachusetts Department of Children and Families 2023 Annual Report; Children's Bureau 2024 Report; National Association of Council for Children; Barton Child Law and Policy Center.

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