Child Relinquishment to Obtain Mental Health Services

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February 2014
Issue:

Parents of children with serious emotional disturbance who need intensive mental health intervention, treatment and services:

- should not have to relinquish custody of their child to the state in order to obtain those services, and
- should not have their names placed on the abuse/neglect central registry.

Child relinquishment is a Texas problem that needs a solution.
Painting the picture...

- Who are these kids? Who are these parents?
- Lack of intensive services = no other options
  - Residential services not available unless child is Medicaid eligible
  - YES waiver is currently available only in Bexar, Travis, Tarrant and Harris counties
- CPS takes custody

- Abuse/Neglect determined based on “refusing to accept parental responsibility” (RAPR)
- Parents lose parental rights – no say in where the child is placed, medical decisions, educational decisions, etc.
- Family torn apart; child feels abandoned; little hope of reunification
- Parents’ names go on the Central Child Abuse Registry
Discrimination – The Texas Double Standard Based on Type of Disability

- Parents of children with developmental disabilities have options.
  - Institutional services (nursing facility, SSLC, ICFID) paid by the state; diversion waiver slots available to provide comprehensive community services; parents do not lose parental rights and are encouraged to stay involved.

- Parents of kids with serious emotional disturbance have very few options.
  - Often have exhausted insurance benefits, exhausted financial resources, exhausted emotional resources.
Historical Agency Response to Advocates Requests for Solutions:

- Child Protective Services – These kids don’t belong in our system; advocate at DSHS for more services; if we don’t put the parents’ names on the registry, we’ll “open the flood gates. It’s the same as voluntary relinquishment.”

- Department of State Health Services – We don’t have any mechanism to offer residential treatment services to kids not eligible for Medicaid; there’s nothing we can do; these kids are in the child welfare system.

- The two agencies never came together.
Agency response...

- Agencies admitted that it was a problem and that treatment wasn’t fair, but would not support initiatives to correct. Told us “it’s a complex problem.”

- Legislation drafted in 2009 but wasn’t filed due to agency opposition; legislation filed in 2011 but did not pass due to agency opposition; legislation passed in 2013 but was altered significantly from the bill originally filed due to opposition from the agency and the governor’s office.
What we asked for...

- Create diversion funding to prevent unnecessary institutionalization and relinquishment, similar to the Home and Community-based Services (HCS) waiver slots designated for children in the IDD system to prevent institutionalization in the state supported living centers.

- Require the Department of Family and Protective Services to begin collecting data on the number of children/youth who enter the system solely for the purpose of obtaining critical services and had not been abused or neglected. (We should know this number.)

- Develop a system of “limited voluntary placement.” This can be tailored to limit the option to those whose mental health condition is so severe that the child, family, or others are at risk of significant harm.

- When a child enters the child protective services system solely to obtain needed mental health services, allow and encourage joint/shared conservatorship between the family and the department. This is the best way to keep the child and family connected, can encourage reunification and reduce time in DFPS care.
What we asked for...

- If a child is placed in the CPS system to access mental health services, require dual responsibility between Child Protective Services and the Department of State Health Services to ensure the appropriate services are made available.

- Families who voluntarily relinquish custody solely to obtain intensive mental health services for their child should not be placed on the abuse and neglect registry and should not be deemed as “refusing to accept parental responsibility.”

- Implement the YES waiver effectively statewide as a mechanism to provide intense behavior supports needed by families to prevent relinquishment.

- Educate parents and families regarding their rights. Educate judges on the legal options available to help support these children and families.
What we got in the 83rd Session... SB 1 (Williams) and SB 44 (Zaffirini)

- Ten diversion slots to provide intensive residential treatment to prevent relinquishment. *(Not close to being enough.)*

- DFPS and DSHS are working together. *(No small feat; amazing what has been learned and how kids are being helped just by agencies working together.)*

- Council on Children and Families charged with making recommendation for preventing the practice of putting names on the registry when relinquishment is solely for the purpose of obtaining mental health services. *(Doesn’t guarantee a fix.)*

- Requires DFPS to consider requesting and informing parents (if in the best interest of the child) of the option for joint conservatorship when a child is relinquished to access mental health services. *(Still up to the agency to determine “best interest of the child.”)*
And...

- Requires DFPS and DSHS to jointly study, develop and implement (at the discretion of the executive commissioner) changes needed to prevent child relinquishment. The study is being conducted by the UT School of Social Work. *(Still no guarantee that recommended changes will be implemented.)*

- Requires annual reporting and data collection.

- Included a budget rider directing the development of a plan to expand the YES waiver statewide.

- DFPS and DSHS have hosted two meetings to update advocates on progress.
Here’s what’s left to do:

- Increase funding for diversion slots – initial 10 have been used or are in the pipeline to be used in first 6 months of availability.
- Ensure funding is available for statewide expansion of the YES waiver; ensure that the state continues expansion plans.
- Analyze data to be collected to get a grasp on how big the problem actually is. Currently, the state can’t tell us.
More to do...

- Until the need for child relinquishment is eliminated, develop policies ensuring that parents who relinquish custody, solely to obtain mental health services for their child, do not have their names placed on the central abuse registry.

- Analyze data to determine if parents are being offered the option of joint conservatorship and if judges are being informed about the option.

- Eliminate the need for relinquishment.
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