HOW “REASONABLE EFFORTS” LEADS TO EMOTIONAL AND LEGAL PERMANENCE

BOB FRIEND AND KELLY BECK

“Hidden within the landmark legislation were two words that, over the years, would come to summarize the expectations of the law, typify its vagueness, and predict its controversy—’reasonable efforts.’”

I. ABOUT THE AUTHORS

The authors of this article, Bob Friend, LCSW, and Kelly Beck, JD, collectively have over sixty years of experience working with children, youth, and families. They have each spent the majority of their professional careers dedicated to learning, training, coaching, and inspiring “permanency.” For the last six years, they have worked together at the National Institute of Permanent Family Connectedness (NIPFC) to train and coach professionals in child welfare agencies, court systems, and other partner agencies on how to reduce the time youth spend in care, increase

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1 Wendy Whiting Blome, Reasonable Efforts, Unreasonable Effects: A Retrospective Analysis of the “Reasonable Efforts” Clause in the Adoption Assistance and Child Welfare Act of 1980, 23 J. SOC. & SOC. WELFARE 133, 134 (1996). See also 42 U.S.C. § 671(n)(15)(B)(i)–(ii) (2012) (“[R]easonable efforts shall be made to preserve and reunify families—prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child’s home; and to make it possible for a child to safely return to the child’s home . . . .”).


permanency outcomes, and involve “family” early and often in permanency planning.  

Both Bob and Kelly have witnessed, first hand, how child welfare systems have come together in an effort to create better outcomes for the families and youth they serve. They have witnessed how one person can affect a child’s travel through the child welfare system by being relentless in the quest for permanency. It is with great pleasure and pride that the authors submit this article to all professionals who work within the child welfare system. It is their hope that this article will be informative and inspirational for those professionals as well as others newly introduced to or aspiring to work within the child welfare system.

II. INTRODUCTION

This article intends to holistically review the opportunities and actions of the entire child welfare system in order to improve the experience and outcomes of the children and families it was intended to serve. More specifically, the authors will weave together the leadership and oversight provided by courts via reasonable efforts findings with the innovative practices that child welfare agencies, advocates, and partners can take in between hearings to advance and secure the safety, permanence, and well-being of the children, parents, family members, and communities they serve.

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5 As used throughout this article, the term “family” includes all biological family members, important connections for children and youth, non-related extended family members, and others. As used in Indian Child Welfare Act (ICWA) matters, “family” also includes “extended family member[s].” 25 U.S.C. § 1903 (2012).


8 The authors have worked with communities in Pennsylvania, Virginia, Wisconsin, and California among others. These communities have brought together their legal, child welfare, probation, service providers, and foster family agencies to develop Family Finding and Engagement strategies. See Children’s Home Society of North Carolina, YORK COUNTY FAMILY FINDING CONFERENCE, VIMEO (2013), https://vimeo.com/64070556 [https://perma.cc/T6DG-3PTA].

9 Based upon personal accounts shared by attendees during field trainings conducted by both authors.

The article will begin by reviewing some of the history of the reasonable efforts requirements and further clarify the true intent of this enabling legislation, followed by discussion of how the child welfare system has often missed the opportunities contained within the vague definition of the requirements. The authors will then outline how the court can ensure that the “efforts” presented include the identification, engagement, and involvement of family members. The article will further describe the types of efforts or innovative child welfare practices that have been created to improve relationships with youth, parents, and family members by increasing their trust in and promoting their partnership with the child welfare system. These practices are designed to resolve the safety issues that prevent children from leaving foster care, while attending to the loneliness and lack of permanency options for many children in care.

The proposed “reasonable efforts” methodology (hereinafter methodology) presented in this article focuses on what can be accomplished between each of the hearings where a reasonable efforts finding is required, so that the child or youth is moving closer to being connected with and raised within a committed, supportive, permanent family. Viewing the time between hearings as an opportunity to implement evidence-based and promising family engagement strategies will allow the court to more effectively review all efforts employed to create a pathway home for each child or youth.

Finally, the article will detail the responsibilities and opportunities for key child welfare system participants to contribute to the identification, engagement, and involvement of family members in the matters concerning their kin. Their activities toward this goal should be presented to the court as evidence of reasonable efforts.

A. Clarifying Reasonable Efforts

In 1980, Congress passed the Adoption Assistance and Child Welfare Act (The Act). The Act sought to address several issues that Congress
deemed to be lacking in the child welfare system. Some of the important issues addressed by the Act were: the unnecessary placement of children into the care of the state; children languishing in care; the challenges in achieving permanency for children; and the lack of essential due process afforded to the parents in state intervention matters. The due process standards outlined therein included the use of fundamental fairness in a planned and reasonable manner to further the goals of child permanency and effective judicial oversight. Courts were now required to find that the state had employed reasonable efforts at different critical stages of the child welfare proceedings in order to maximize permanency options for children.

This legislation marked the first time that the federal government sought to define the role and responsibilities of the state. It was also the first time that the courts were charged with determining whether the public child welfare agency (hereinafter agency) had provided services or “efforts” that would meet the needs of the child, while also monitoring the time that children were spending in care.

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20 Edwards, supra note 19, at 1–3; Shotton, supra note 19, at 223–24.
21 Id., supra note 19, at 2.
22 Id.
23 Id.
25 "State child welfare agencies” are defined as:

State agencies that are mandated to respond to reports of child abuse and neglect and to intervene as needed to protect the child. Typically, they provide a range of child welfare services for children and families, including family preservation, child protection, out-of-home care, and adoption.

26 Edwards, supra note 24, at 5.
27 Laura Argys & Brian Duncan, Economic Incentives and Foster Child Adoption, 50 DEMOGRAPHY 933, 935 (2013).
The enactment of the reasonable efforts requirement, coupled with the explicit judicial gatekeeping requirement, resulted in confusion and frustration for those working within the child welfare system.\(^\text{29}\) Contributing to this confusion was the Act’s lack of a definition of the term “reasonable efforts,”\(^\text{30}\) along with the absence of a recognized universal standard for the term.\(^\text{31}\)

Since the Act’s passage, many publications, both private and public, have sought to provide guidance or clarification for practitioners.\(^\text{32}\) Indeed, one such publication by the U.S. Department of Health and Human Services (HHS) offered an explanation as to why there is no definition.\(^\text{33}\) For our purposes, it is critical to consider the strength of the language contained within one paragraph of that publication:

We do not intend to define “reasonable efforts.” To do so would be a direct contradiction of the intent of the law. The statute requires that reasonable efforts determinations be made on a case-by-case basis. We think any regulatory definition would either limit the courts’ ability to make determinations on a case-by-case basis or be so broad as to be ineffective.\(^\text{34}\)


\(^{30}\) See supra note 1 and accompanying text; Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, 63 Fed. Reg. 50,058, 50,061 (Sept. 18, 1998).


\(^{32}\) Mark Hardin et al., A SECOND COURT THAT WORKS: JUDICIAL IMPLEMENTATION OF PERMANENCY PLANNING REFORMS (1995); ABA PRESIDENTIAL WORKING GRP. ON THE UNMET LEGAL NEEDS OF CHILDREN AND THEIR FAMILIES, AMERICA’S CHILDREN AT RISK: A NATIONAL AGENDA FOR LEGAL ACTION (1993); Mark Hardin, Establishing a Core of Services for Families Subject to State Intervention: A Blueprint for Statutory and Regulatory Action (1992); Nat’l Council of Juvenile & Family Court Judges et al., MAKING REASONABLE EFFORTS: STEPS FOR KEEPING FAMILIES TOGETHER (1987); Debra Ratterman et al., REASONABLE EFFORTS TO PREVENT FOSTER PLACEMENT: A GUIDE TO IMPLEMENTATION (2d ed. 1987).


\(^{34}\) Id.
The publication further provided examples that could be used by courts in determining what “efforts” could be considered by the judicial officer:

In the absence of a definition, courts may entertain actions such as the following in determining whether reasonable efforts were made:

1. Would the child's health or safety have been compromised had the agency attempted to maintain him or her at home?
2. Was the service plan customized to the individual needs of the family or was it a standard package of services?
3. Did the agency provide services to ameliorate factors present in the child or parent, i.e., physical, emotional, or psychological, that would inhibit a parent's ability to maintain the child safely at home?
4. Do limitations exist with respect to service availability, including transportation issues? If so, what efforts did the agency undertake to overcome these obstacles?
5. Are the State agency's activities associated with making and finalizing an alternate permanent placement consistent with the permanency goal? For example, if the permanency goal is adoption, has the agency filed for termination of parental rights, listed the child on State and national adoption exchanges, or implemented child-specific recruitment activities?35

At the state level, legislators often sought to define reasonable efforts in order to comply with the federal guidelines and assist practitioners.36 Many of the resulting state statutes, however, focused on describing the literal meaning of the two words: “reasonable” and “efforts.” For example, in Missouri, “‘Reasonable efforts’ means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family,”37 whereas, in Florida,

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35 Id.
37 MO. REV. STAT. § 211.183(2) (2010).
“‘reasonable effort’ means the exercise of reasonable diligence and care by the department to provide the services ordered by the court or delineated in the case plan.”

These state-legislated definitions and most others include the term “services.” Services have been defined as efforts on behalf of the public child welfare agency to help the parent overcome the reasons for the removal. However, these definitions provide little or no guidance regarding what efforts or services could or should be considered by the courts.

Only a few states have taken the additional step of drafting legislation or policy that includes examples of specific efforts for the judicial officer to consider and to which the child welfare agency should adhere. For example, California has developed both statutes and rules of court that further assist the judicial officer in making this determination.

The California Welfare and Institutions Code includes language that outlines the efforts a child welfare worker is required to employ prior to the physical removal of a child from his or her home. These efforts include:

1. Whether there are any reasonable services available to the worker which, if provided to the minor’s parent[s], guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker.
2. Whether a referral to public assistance would eliminate the need to take temporary custody of the minor. If those services are available they shall be utilized.
3. Whether a nonoffending caretaker can provide for and protect the child from abuse and neglect and whether the alleged perpetrator voluntarily agrees to withdraw from the residence, withdraws from the residence, and is likely to remain withdrawn from the residence.

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The California Rules of Court provide additional guidance for judicial officers, including what other efforts could be implemented prior to physical removal. Likewise, these rules contain guidance when the child or youth has nonetheless been physically removed from his or her home after unsuccessful attempts. In that instance, “information about any parent or guardian of the child with whom the child was not residing at the time the child was taken into custody and about any relative or nonrelative extended family member . . . with whom the child may be detained” must be provided to the court.

These Rules of Court contain the court’s requirement to determine whether the child welfare agency has made reasonable efforts to prevent physical removal, and if continued physical removal is warranted, then whether there is an appropriate relative, close family friend, or another adult with whom the child can be placed. This course of action would avoid placement with someone the child does not know or trust.

For dependency cases involving domestic violence, the National Council of Juvenile and Family Court Judges (NCJFCJ) has published a checklist to assist judges in identifying specific factors that should be considered when making reasonable efforts determinations in situations involving domestic violence. Some of the recommended efforts in these cases include: “Helping the adult victim find a family member or friend to stay with temporarily”; “Enlisting the support of community entities such as churches, schools, and other neighborhood organizations”; and “Providing interpreters.”

If the child is already removed, the NCJFCJ checklist suggests “the court should ask what actions would be needed to allow the child to return home immediately and safely and what services would be needed to support the child’s return.” Included in these recommendations is a notation to judicial

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44 Judicial Council of Cal., Judicial Council Governance Policies 7 (2008), http://www.courts.ca.gov/documents/appendix_d.pdf [https://perma.cc/4MCH-UE8N]. This guidance includes a “description of the services that have been provided . . . and of any available services or safety plans that would prevent or eliminate the need for the child to remain in custody”). Cal. Rules of Court § 5.676(b)(2) (2016).
45 Cal. Rules of Court § 5.678(a)–(b) (2013).
47 Cal. Rules of Court § 5.678(c)–(e) (2013).
50 Id.
51 Id. at 26.
officers that the list of questions and services is not exhaustive. “In every case, the services that the adult victim will need to keep herself or her child safe will be different” and “[j]udges should also ensure that services are culturally competent, linguistically appropriate, and sensitive to the particular concerns of immigrant communities.”

It is clear the federal government has granted courts the authority to determine what types of efforts would be appropriate, available, and reasonable for a particular family or youth. Implicit within this authority is the court’s obligation to consider any relevant evidence that would determine whether the reasonable efforts requirement has been met for a specific family or youth. Specific facts and circumstances of each individual case and family situation help to define reasonable efforts in each instance. With risk assessment tools used by the Child Welfare Agency to determine if removal is necessary, the family’s strengths and needs are determined and provided to the court. Without this information, a judicial officer cannot make an accurate or reliable reasonable efforts finding. In that instance, the court should ask for additional information. In many, if not most cases, this knowledge of familial and cultural background must be

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52 Id.
54 See id. at 48–50.
55 NAT’L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, ENHANCED RESOURCE GUIDELINES: IMPROVING COURT PRACTICE IN CHILD ABUSE AND NEGLECT CASES 131 (2016) [hereinafter ENHANCED RESOURCE GUIDELINES], http://www.ncjfcj.org/sites/default/files/%20NCJFCJ%20Enhanced%20Resource%20Guidelines%202016.pdf [https://perma.cc/F478-9J8Z]. See also id. at 135 (“Does the family believe that these services, interventions, and supports will meet their current needs and build upon strengths?”). Likewise, in determining whether the current out-of-home placement meets the child’s and family’s needs, the NCJFCJ provides:

Kinship caregivers should be approached from a strengths-based perspective by addressing their current situation and evaluating current and known safety risks along the same lines that child safety is evaluated to determine whether the child can return to a parent’s care. Non-relative foster care placement should be a last resort, and even if a child is placed in foster care, maintaining a connection with relatives who are important to the child and supportive of the parents is essential.

Id. at 137, 138.
56 See EDWARDS, supra note 53, at 22.
obtained through conversations and engagements with the family and the youth.\textsuperscript{57}

As alluded to above, what is \textit{most} important to understand about the reasonable efforts requirement is that it is, by design and necessity, a moving target. Given the unique circumstances, needs, and strengths of each family, it must be flexible and pliable. It is a term that allows the court to consider all reasonable means available, at a particular point in time and that can be utilized to achieve an end result.\textsuperscript{58} With the continued emergence and development of new and innovative child welfare practices, it behooves practitioners to insist on a specific, concrete, and “one size fits all” definition of reasonable efforts. As HHS has pointed out, the states “have a great deal of flexibility in satisfying this requirement . . . for demonstrating that judicial determinations are made on a case-by-case basis.”\textsuperscript{59} With each new or redesigned program or practice made available to child welfare agencies comes the potential to broaden what efforts the judicial officer may consider to be reasonable.

\textit{“The reasonable efforts finding is as an important an element of the case as a finding on abuse or neglect.”}\textsuperscript{60}

\textbf{B. When Reasonable Efforts Are Required}\textsuperscript{61}

A reasonable efforts finding is required at specific or federally mandated court hearings in a child welfare case.\textsuperscript{62} These written findings are typically found in a pre-drafted template and completed after each hearing where the finding is required.\textsuperscript{63} Often there is a box contained within this form that the judicial officer (or court clerk) will check once the hearing is complete.\textsuperscript{64}

\begin{footnotesize}
\begin{enumerate}
\item Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, 65 Fed. Reg. 4020, 4056 (Jan. 25, 2000).
\item There are situations where no reasonable efforts are required. See 42 C.F.R. § 1356.21(b)(3) (2012). Under the ICWA, “active efforts” must be utilized to prevent the breakup of the Indian family, whether in a foster care placement or in termination of parental rights proceedings. See 25 U.S.C. § 1912(d), (f) (2012).
\item \textsc{Edwards, supra} note 53, at 1415–22.
\item See id.
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Some jurisdictions utilize a form that allows the court to fill in what efforts have been employed by the child welfare agency. The only evidence presented during a hearing where a reasonable efforts finding is required consists of what “services” the agency has provided or tried to provide for the child’s parent(s). Thereafter, the parent submits his or her compliance records in response to those services. The timing of the reasonable efforts finding is strategic because the court must consider efforts made prior to the child being removed from the home, at the time of removal, and in consideration of permanency goals.

The first hearing when a reasonable efforts finding is required is the first time the court is introduced to the child and family. This hearing is sometimes referred to as the “Shelter Care Hearing,” however it is identified as different titles depending on the jurisdiction, including “preliminary protective,” “detention,” or “emergency removal.” This is, by far, the most crucial finding made by the judicial officer. The finding is actually based on a two-prong test. The court must find that the state made reasonable efforts to (1) prevent the unnecessary removal of the child from his or her home and (2) “effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child).”

The evidence required at this hearing focuses on what was done in the field to prevent removal and what measures can be employed to enable the child to immediately return home. Furthermore, the information or evidence that the court relies upon to make this finding must be “explicitly documented and must be made on a case-by-case basis and so stated in the court order.” As suggested by the example language from the California statutes and rules of court, these efforts should include what resources and family involvement can be implemented to allow the child to remain at home.

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65 Id. at 1422.
67 ENHANCED RESOURCE GUIDELINES, supra note 55, at 107.
68 Id.; BENCHCARD, supra note 57, at 6–7.
69 EDWARDS, supra note 53, at 318–19.
70 45 C.F.R. § 1356.21(b) (2012).
71 Id.
72 Id.
73 45 C.F.R. § 1356.21(d) (2012).
The next hearing where a reasonable efforts finding is required is the first federally mandated review hearing. According to the federal regulations, the court must review the child’s situation no less than once every six months from the date of entry into foster care. Finally, the court is required to determine whether the agency has or has not made reasonable efforts to finalize the permanent plan for the child, such as whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement.

It cannot be stressed enough that each time the court makes a determination regarding whether reasonable efforts have been made, it must be done so on a case-by-case basis. The rationale for this requirement is found within the question and answer section in the Child Welfare Policy Manual developed and maintained by the Children’s Bureau, Administration for Children and Families, within HHS.

[The basis for] this policy can be found in the legislative history of the Federal foster care program. The Senate report on the bill [that became Public Law 96-272] characterized the required judicial determinations as “. . . important safeguard[s] against inappropriate agency action . . .” and made clear that such requirements were not to become “. . . a mere pro forma exercise in paper shuffling to obtain Federal funding . . .” We concluded, based on our review of State[,] documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become.

75 It should be noted that some states have incorporated the “reasonable efforts” determination into other interim review hearings and at dispositional hearings. See Edwards, supra note 53, at 377.
76 Cal. Rules of Court § 5.810(a) (2016) (“For any ward removed from the custody of his or her parent or guardian under section 726 and placed in a home under section 727, the court must conduct a status review hearing no less frequently than once every six months from the date the ward entered foster care.”).
77 45 C.F.R. § 1355.20 (2012) (“The date of the first judicial finding that the child has been subjected to child abuse or neglect; or, the date that is 60 calendar days after the date on which the child is removed from the home pursuant to § 1356.21(k)).”
79 45 C.F.R. § 1356.21(d) (2012).
The focus of the methodology proposed by this article centers on what is being done in between each of these critical hearings to ensure the child or youth is moving toward being connected to and raised within a family, so that his or her stay in foster care can be prevented or minimized. Viewing these periods as opportunities to build upon the services already being provided along with the use of innovative, effective family engagement strategies will allow the court to review all efforts made to achieve stable permanency for each child or youth.81

“That undefined prescript has come to dominate practice with profound impact on the lives of children, families, social workers, administrators, judges, and attorneys in the child welfare system. The drafters of the legislation never suspected that the reasonable efforts clause would become the key mechanism for enforcing the intent of the law.”82

C. Missed Opportunities

The child welfare system is typically defined as a state intervention, utilized when parents abuse, neglect, or abandon their children.83

When a state intervenes with a family, the state may decide to leave the child in the home while providing services necessary to protect the child’s safety. But, where the state believes that risks existing in the home are too high, the state’s intervention can include removing the child from the home and placing the child in the temporary custody of the state.84

Recent national statistics captured by the Children’s Bureau cited 112,584 children in foster care for two or more years as of September 30, 2014, whereas approximately 22,392 aged out of foster care in 2014.85

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82 Blome, supra note 1, at 134.
84 Crossley, supra note 36, at 265 (emphasis added).
the poor outcomes for youth who age out of foster care, it is important that the child welfare system be utilized as a temporary intervention with a goal of returning or maintaining the child at home or another permanent family-like living arrangement. Federal legislation and guidelines promote the use of promising and evidence-based practice, along with relative engagement strategies, to reduce lengths of stay in foster care and promote permanency. The following review of how the child welfare system should respond to families and children in crisis, as well as how innovative practices can improve outcomes for this population, will help demonstrate the benefits of the methodology proposed later in this article.

The progression of events once the child welfare system has responded to a report of child maltreatment is as follows:

The goal of state intervention is to take those steps necessary to prevent or eliminate the need for removal of the child from the home or to make it possible for the child to return safely home when removed. The child protection agency must show that it has made “reasonable efforts” in meeting the case plan before removing the child or permitting the child to return home.

Child welfare professionals typically interpret this definition of the state’s intervention as the provision of “services” to the parent or guardian

87 See Overview, CHILD WELFARE INFO. GATEWAY (2013) [hereinafter Overview], https://www.childwelfare.gov/topics/outofhome/overview [https://perma.cc/2XTK-QD4K].

Out-of-home care is intended to be temporary—the goal is to return children home as soon as possible or achieve permanency with another permanent family when this is not possible. Many of the services provided to children in out-of-home care and their families are targeted to achieving the goal of permanency.

from whom the child was removed.90 A review of the allegations for removal is then coupled with services to ameliorate those conditions.91 However, the “case plan” as mentioned within this definition should also include the child or youth’s case plan. It should ultimately include a case plan that will enable the child to return home or achieve permanency with another family.

During this period focused on reunification and the provision of services toward that goal, the child welfare worker usually meets with the parent(s) once a month to determine how they are progressing in meeting the requirements of their case plan.92 A typical discussion between the child welfare worker and parent(s) may include: how many clean tests have been received; how many meetings, therapy appointments, or parenting classes were attended; and an update on visitation.

The parent(s) may also meet with their attorney to determine legal strategies or perhaps struggles or obstacles in meeting the requirements of their case plan.93 The attorney for the child is required to conduct his or her own separate investigation while meeting with the child at least once a month.94 A court appointed special advocate (CASA) may meet with the parents while spending as much time as possible with the child or youth.95 Other service providers—such as parenting instructors, mental health professionals, substance abuse counselors, or domestic violence counselors—may meet with the parent(s) and child to assist them in meeting their case plan requirements.96

In addition to the above mentioned tasks, the child welfare worker is responsible for finding an appropriate placement for the child.97 The child welfare worker spends an enormous amount of time finding the first temporary placement, as well as looking for a new placement if the first one

90 Id. at 103.
91 Overview, supra note 87.
93 Am. Bar Ass’n, Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases 10, http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentStd.pdf [https://perma.cc/J3XQ-ESPL].
95 See id. at 8.
96 See id.
97 Id. at 7.
The lack of approved foster families in many communities, which has often been described as a national crisis, makes it extremely challenging and stressful for many child welfare workers to find placements for children who have been removed from their homes.99

Some jurisdictions have embraced, either voluntarily or as a result of litigation, the use of “child and family teams” that bring together family members, other supportive individuals in the community, and professional service providers to help create a “comprehensive” continuum of care for the family.100 Unfortunately, the implementation of “child and family teams” often looks remarkably similar to the practice that preceded it, with various professionals making up the majority of team members.101 The resulting lack of youth and family voice at the table does not conform to the intent and principles of the practice model or to the requirements of the legal settlements.102

Rather than applying all of its “efforts” or “services” toward removing those factors that brought the child and family to the attention of the child welfare system, the system should also be focused on involving “family” in a meaningful and deliberate fashion.103 The stakeholders in child welfare, including the courts need to ask themselves: “How can we involve family early and often to ensure we are meeting our reasonable efforts requirements to prevent removal, to facilitate return home, and to finalize a permanent plan for the family.”

102 See id. at 10.
103 See id. at 8.
D. Filling in the Gaps

Since the passage of the Act in 1980, the child welfare system has failed in many ways to adhere to the spirit of the legislation. Subsequent federal legislation has been passed to fill in the gaps of missed opportunities or where statute has failed to clearly delineate that family and youth should be involved at all stages of the “temporary” child welfare process.

In 1997, Congress passed the Adoption and Safe Families Act (ASFA) due to concerns that implementation as outlined in the Act was not occurring, resulting in a growing number of children being raised in foster care without permanency. ASFA sought to maintain the family unit and prevent the unnecessary removal of a child, effect the expeditious reunification of the child who is in temporary out-of-home placement, and effect an alternative permanency goal in a timely manner. This legislation notably introduced the concept and terminology of “Concurrent Planning.”

In 2006, Congress passed the Child and Family Services Improvement Act. This federal legislation required the court (or court approved administrative body) conducting a required permanency hearing for a foster child to consult with him or her in an “age-appropriate manner” regarding

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the proposed plan to find a permanent home for the child or help the child transition to independent living.\footnote{Child and Family Services Improvement Act of 2006, Pub. L. No. 109-288, § 10, 120 Stat. 1233, 1255 (2006).}

In 2008, the Fostering Connections to Success and Increasing Adoptions Act was passed.\footnote{Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, 122 Stat. 3949 (2008).} There are many components of this major legislation, but for our purposes, the main modification to the current structure of the child welfare system is that now the “State” is required to identify and notice relatives when a child is removed from the home.\footnote{Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, § 103(3)(A)–(B), 122 Stat. 3949, 3956 (2008).} These requirements were grounded in research that children experience better outcomes if they are placed with or connected to kin, rather than languishing in care that was found in many cases to be harmful to children.\footnote{See, e.g., CHILD FOCUS & N. AM. COUNCIL ON ADOPTABLE CHILDREN, KINSHIP ADOPTION: MEETING THE UNIQUE NEEDS OF A GROWING POPULATION 12 (2010), http://childfocuspartners.com/wp-content/uploads/CF_Kinship_Adoption_Report_v5.pdf [https://perma.cc/ZZ5C-V7LV].} The law also required states to make reasonable efforts to place siblings removed from their home in the same foster care, adoption, or guardianship placement, or facilitate visitation or ongoing contacts with those who cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings.\footnote{Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, § 206(3)(A)–(B), 122 Stat. 3949, 3962 (2008).}

In 2011, the Child and Family Services Improvement and Innovation Act was passed.\footnote{Child and Family Services Improvement and Innovation Act, Pub. L. No. 112-34, § 101(a)(3)(C), 125 Stat. 369, 369 (2011).} This legislation required states to describe what activities they will implement to reduce the length of time that children under the age of five are without a permanent family.\footnote{Child and Family Services Improvement and Innovation Act, Pub. L. No. 112-34, § 101(a)(3)(C), 125 Stat. 369, 369 (2011).}

Then in 2014, the passage of the Preventing Sex Trafficking and Strengthening Families Act eliminated the use of Another Planned Permanent Living Arrangement (APPLA) for children under the age of 16 and severely restricted its usage for youth 16 and older.\footnote{Preventing Sex Trafficking and Strengthening Families Act, Pub L. No. 113-183, §§ 112, 475A, 128 Stat. 1919, 1926–27 (2014).} It further authorized children 14 and older to participate in the development of their
own case plans, including consultation with up to two members of a “case planning team.”

Despite the ongoing efforts to encourage and promote timely attainment of permanence via judicial oversight and to ensure increased family involvement and promotion of youth and family voice, children still unnecessarily languish in care, are aging out without sufficient supports, and are living unhealthy lifestyles once leaving care.\footnote{Preventing Sex Trafficking and Strengthening Families Act, Pub L. No. 113-183, § 113, 128 Stat. 1919, 1928 (2014).} Despite the steep reduction in child welfare intake and total enrollment in child welfare nationally, the number of youth aging out did not reflect the same decline proportionately, and in fact increased over this eight year period, prior to the establishment nationally of extending foster care beyond eighteen via the Fostering Connections Act.\footnote{Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, 122 Stat. 3949 (2008).}


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A key step necessary to close this gap is to increase the partnership, interaction, and accountability of both the judicial and service branches within the child welfare system. This will create an alignment that will not only meet legislative intent, but will improve the experience of those who are served by the system, as well as prevent unnecessary entries and reduce the length of stay in the system.

E. The Shift

How do we move away from the status quo of prioritizing stable but temporary shelter, foster, and group placement to a more consistent attainment of the legislative intent to promote family involvement and timely permanence with family? It can be argued the lack of national accountability of both child welfare agencies and courts (i.e., lack of attention in IV-E court audits to meeting requirements for family finding, family involvement, and youth participation), along with archaic funding streams that allow or even promote divided efforts, work to discourage system participant collaboration. And while efforts are underway to re-envision child welfare funding, measures can be taken immediately and within the current system to move closer, and faster, to the desired outcomes.

Individuals can begin an immediate shift in their daily practice by establishing a default thought process of family involvement. The focus of the courts and professionals providing or overseeing service delivery to young people and their families must embrace the notion that the primary and most undervalued asset available are the very families they are obligated

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124 “Families” refers to healthy and safe family members, including those defined in note 5, supra.
to serve. Family members can play a variety of roles to help avert unnecessary out of home placements, to minimize and heal trauma, to limit loneliness and disconnection, and to maintain a sense of hope in the face of crisis.\textsuperscript{125} They can work together with child welfare professionals and volunteers to restore acceptable functioning of birth parents in order to reunify or support the establishment of strong relationships with kin.\textsuperscript{126}

The court, as the system’s gatekeeper and overseer of the agency’s efforts both before entering care and continuing throughout the child or youth’s participation in the child welfare system,\textsuperscript{127} has the responsibility to ensure that all available efforts (models) that promote family involvement are being implemented.\textsuperscript{128} Thus, the court can utilize its authority to ensure that the agency has met its legal mandates (i.e., preventing removal, return home or permanency planning) by supporting and requiring family involvement, while also authorizing the participation of all stakeholders in these efforts which will ultimately assist in reaching these overarching goals for each child.

The court is required to make specific reasonable efforts findings and it must do so by reviewing and considering all relevant evidence.\textsuperscript{129} This evidence can be viewed as the “key” to permanency, since these findings and orders will ultimately determine the path the child will follow.\textsuperscript{130} Children and youth need to be surrounded by a network of loving people where they can feel loved, secure, and safe, as well as provided with a sense of belonging.\textsuperscript{131} Minimizing disconnection from their “support system” and reducing the time away from “family” should be the priority.\textsuperscript{132} The practice models discussed below, along with each of their components, are an indication of what can be accomplished outside the courtroom to move children closer to permanency.\textsuperscript{133} The checklist attached as Appendix A is a shorthand version of these programs which can be used a checklist during each hearing where reasonable efforts is required.\textsuperscript{134}

If all child welfare professionals commit to the attainment of certain and specific legal mandates early and often, while utilizing innovative child welfare practices that promote safety, permanence, and well-being, each

\textsuperscript{125} See Rose Marie Wentz & Kelly Lynn Beck, Unlocking “Reasonable Efforts” Kinship is Key, 46 CLEARINGHOUSE REV. 99, 105–107 (2012).
\textsuperscript{126} See id.
\textsuperscript{127} Edwards, supra note 19, at 2.
\textsuperscript{128} Wentz & Beck, supra note 125, at 112.
\textsuperscript{129} ENHANCED RESOURCE GUIDELINES, supra note 55, at 302–07.
\textsuperscript{130} Edwards, supra note 19, at 10.
\textsuperscript{131} See ENHANCED RESOURCE GUIDELINES, supra note 55, at 109.
\textsuperscript{132} Id.
\textsuperscript{133} See infra Section III.B.
\textsuperscript{134} See Appendix A.
child or youth’s chances for early and safe permanency will be greatly enhanced. Safety, permanence, and well-being can be viewed as a three-legged stool where the intersecting constructs rely on the stability of each leg. When children and adults are not well connected, they are vulnerable to experiencing both physical and psychological challenges.

Human and social capital research indicates that supportive networks provide alternatives to and discouragement from delinquency. Young people who age out of foster care without social and emotional supports are subject to a plethora of poor outcomes, many of which have been cited by numerous studies in order to drive system reform. When foster youth are able to develop relationships characterized by trust and commitment, their outcomes during and after placement are greatly improved. This is especially true when children and their caregivers are assisted in building or accessing a supportive network of family members that can be there for them over the long term. When young people have at least some connection to their parents, along with a close relationship with grandparents, they suffer from fewer emotional and behavioral problems and develop better social skills that help reduce aggressive behavior on the part of the young person.

The work being done inbetween the hearings where reasonable efforts is required must be geared toward family involvement, placement, and support. This is the evidence needed for the judicial officer to make a “reasonable efforts” finding.

135 See generally Edwards, supra note 19. See also Wentz & Beck, supra note 125, at 101.
141 See supra note 35 and accompanying text.
III. OVERVIEW OF PROPOSED APPROACH

The goal of the proposed reasonable efforts methodology is to incorporate the latest and most innovative, family-focused child welfare practices, which are designed to build a supportive network for the youth and family and intertwine those practices with a sound legal approach. This will generate more of a “family as the solution” approach to child welfare work. The listed innovative practices are particularly effective in engaging and involving family members. These practices are designed to proactively reach out to family members, invite them to participate in planning for the future of their kin, and welcome them to the resulting process of discussion and problem-solving. It is important to note that there are other programs and processes that support family involvement, and if those programs include some of the same components as the practices described in this article, they too should be included in reasonable efforts discussions and activities.

It is posited that the best practice model presented here would prevent unnecessary removals, safely maintain a child’s sense of belonging with family without unnecessary disruptions, and establish a more seamless process of maintaining family connections. The proposed methodology not only embraces and incorporates other family-focused legislative requirements, such as fostering connections, relative placement preference, and concurrent planning, but it helps child professionals and the courts to meet those requirements.

143 See infra Section III.B.
144 See infra Section III.B.
146 Id. at 4.
149 See id. at 22.
150 See id. at 3.
A. Proposed Methodology

During the time of initial investigation, up to and including the first formal court hearing, the focus is to maintain the child or youth at home with his or her family by the agency, another partner agency, or both. Family engagement, relative search, and other family centered practices as outlined below should be incorporated. Involving healthy and safe family members and important connections may allow the child to either stay at home with safety plans in place or to stay temporarily with those others identified.

If after consideration of available means to prevent removal from family, the child or youth is legally removed from his or her parents, the focus of the work, practices, or efforts implemented during this next time period (between each crucial hearing) should be on returning the young person to family. No longer would this period be a time to “wait and see”: (1) if the parent(s) complete(s) their case plan; (2) if any relatives will show up to help; or (3) if the child can maintain his or her placement. During this time frame, the focus should be on the efforts required to maintain family connections and build a family support network that will always be there for the child. But what is needed to make this happen?

Once the child or youth is removed from their home, the child welfare process often takes on a life of its own. A variety of published flow charts used throughout the United States show a layout of the entire child welfare experience. At the top of the chart is the child’s removal, followed by the hearings and possible outcomes during the case, until the bottom of the chart is reached where the child ages out of the system or the matter is dismissed by the court. Many flow charts show just the hearings that will most likely be encountered during the court dependency experience or when reasonable efforts findings are required. The following is an example of

151 See BENCHCARD, supra note 57, at 6; ENHANCED RESOURCE GUIDELINES, supra note 55, at 107.
152 See BENCHCARD, supra note 57, at 12.
154 Id. at 511.
156 See id.
158 See id.
a chart that summarizes the hearings where reasonable efforts determinations are required to be made by the court: 159

A key aspect of the proposed methodology, and what is unique from the traditional flow chart approach, is the work that can be accomplished prior

159 Fitzgerald et al., supra note 89, at 100.
to and in between each crucial hearing to bring the child or youth closer to being with family. So what are the promising or innovative services that can be incorporated and implemented to close the gaps in practice and increase the level of connection for the youth?

It has been established that the federal government has provided the essential legal mechanism(s) to include innovative practice areas as they develop or are incorporated in state statutes, policies, and programs.\(^{160}\) Allowing the court to determine reasonable efforts on a case-by-case basis leaves room for these types of innovative practices to be utilized prior to the time of removal and at the same time as reunification services are being offered, in order to better ensure permanency for the child.

Viewing the time prior to the first hearing and the periods between subsequent hearings as opportunities to incorporate any aspects of the innovative practice models described below would begin a true focus on family involvement and movement toward permanency.\(^{161}\) Further, by recognizing and utilizing the power of the reasonable efforts finding, the court can review what has been done pursuant to these innovative practice models and either find that reasonable efforts have or have not been met (i.e., cases where the practices were not utilized). Absent such an intentional approach that reinforces the urgency of attention and effort to children and families in crisis, we will continue to fall short in achieving permanency for large numbers of children.

**B. Innovative Practice Areas**

Innovative child welfare practices have emerged that, when combined with an active and attentive judicial approach to enforce reasonable efforts standards, attend to the legislative intent in the federal child welfare statutes discussed above.\(^{162}\) The following are notable child welfare practices, which should be implemented:

1. **Front End Practice Which Emphasizes Safety**\(^{163}\)

A number of child welfare practices have emerged to improve the industry’s ability to identify and mitigate harm and danger, and direct child welfare professionals to increase and improve their engagement with family (blood relatives and connections) to promote the child to safely remain

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\(^{160}\) See supra Part II.

\(^{161}\) See Appendix A.

\(^{162}\) See supra note 105 and accompanying text.

within the family.  These practices begin by amassing as many family connections as possible upon identification that children are or may be harmed in order to clarify the danger and determine if the “family” can mitigate the risk without the oversight of the court or the Department of Social Services.  These practices value family involvement and recognize that families know much more about the nature of and possible solutions to their problems, so that their voices are of critical importance (inclusive of children and youth). They also value the entire experience of families and strive to learn what resources and strategies families use to prevent harm to children. Key tools, questions, and techniques associated with these practices include: (1) three houses (good things, dreams, and worries); (2) safety circles; (3) harm and danger statements; (4) how many people can be in your living room in an hour?; and (5) getting to know people outside of their problems.

2. Family Finding

The goal of Family Finding is to create a robust asset base of support for every young person and family touched by the child welfare system, so that the asset base can be respectfully engaged, welcomed, and encouraged to participate in the support of the young person while developing and determining plans for the child’s future. This outcome can be achieved for every child at risk of entering or in the process of entering the system, as well as for children languishing in foster care. Key questions that guide the direction of tools, techniques, and strategies associated with Family Finding include: (1) Who can safely care for the child to avert entering care including a non-custodial parent?; (2) Who is related to or connected to this child and family on the planet?; (3) Who can safely be/stay involved and connected to this child and family?; (4) Who can come to the table and participate in planning and decision making to promote safety, permanency, and well-being?; and (5) Who will remain a part of the support network and how can they best contribute?

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164 Meitner & Albers, supra note 163, at 1.
165 See id. at 4.
166 See id. at 2, 4.
167 See id. at 1–2.
168 Id. at 5. See also Appendix A.
169 See More About Family Finding, supra note 3.
170 Id.
171 Id.
3. Dr. Darla Henry’s 3-5-7 Model\textsuperscript{172}

The 3-5-7 Model was developed and created to work with children and young people in the foster care system to assure that they were ready for permanency.\textsuperscript{173} The model has evolved into a core practice model for work with all families towards their readiness to parent in a committed relationship that assures permanency for the well-being of their children.\textsuperscript{174} “The 3-5-7 Model incorporates 3 tasks, 5 conceptual questions and 7 interpersonal skill elements to support this work. The three (3) tasks of the model engage children, individuals and families, guiding practices that support their work of grieving and building relationships.”\textsuperscript{175} The three tasks are: (1) clarification: to explore life events and form identity security; (2) integration: to make sense of all important relationships to establish the permanency of a relationship; and (3) actualization: to firmly recognize and feel secure within a permanent relationship.\textsuperscript{176} The 3-5-7 Model is notable for its focus on:

a. Providing fundamental instruction, practice, and guidance towards building healing relationships that explore losses through grief work with children, parents, extended and chosen family members.\textsuperscript{177}

b. Emphasizing 24/7 interaction and response to behaviors that are indicators of the pain being experienced from losses.\textsuperscript{178}

c. Identifying a framework to support grief and relationship-building work through the tasks of clarification, integration, and actualization towards readiness for decisions to be made for permanency in relationships.\textsuperscript{179}

d. Recognizing and supporting the advanced development of the skills (7) of all those who engage with families and young people in supporting their work.\textsuperscript{180}

\textsuperscript{172} 3-5-7 Model Overview, DARLA L. HENRY & ASSOCIATES (2016), http://darlahenry.org/overview [https://perma.cc/7C6J-FPNJ].
\textsuperscript{173} Id.
\textsuperscript{174} Id.
\textsuperscript{175} Id.
\textsuperscript{176} See id.
\textsuperscript{177} Id.
\textsuperscript{178} Id.
\textsuperscript{179} Id.
\textsuperscript{180} Id.
4. Family Group Conferencing/Decision Making (FGDM)

Family group decision making is a collaborative practice designed to mitigate the inherent power imbalance between large government institutions such as a child welfare agency, and the children, youth, and families they serve. The establishment of a neutral facilitation process enhances the voice and participation of those served by separating the authority from the facilitation role, and allows more equal footing for all team members to brainstorm and develop plans to meet the safety, permanency and well-being needs of children and youth served.

FGDM processes position the family group to lead decision making, and the statutory authorities agree to support family group plans that adequately address agency concerns. The statutory authorities also organize service providers from governmental and non-governmental agencies to access resources for implementing the plans. FGDM processes are not conflict-resolution approaches, therapeutic interventions or forums for ratifying professionally crafted decisions. Rather, FGDM processes actively seek the collaboration and leadership of family groups in crafting and implementing plans that support the safety, permanency and well-being of their children.

Core elements of the FGDM process are:

a. An independent (i.e., non-case carrying) coordinator is responsible for convening the family group meeting with agency personnel.

b. The child protection agency personnel recognize the family group as their key decision-making partner, and

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183 Id.
184 Id.
time and resources are available to convene this group.\textsuperscript{185}
c. Family groups have the opportunity to meet on their own, without the statutory authorities and other non-family members present, to work through the information they have been given and to formulate their responses and plans.\textsuperscript{186}
d. When agency concerns are adequately addressed, preference is given to a family group’s plan over any other possible plan.\textsuperscript{187}
e. Follow-up processes after the family group decision making meeting occur until the intended outcomes are achieved, to ensure that the plan continues to be relevant, current and achievable, because family group decision making is not a one-time event but an ongoing, active process.\textsuperscript{188}
f. Referring agencies support family groups by providing the services and resources necessary to implement the agreed-upon plans.\textsuperscript{189}

5. Family Acceptance Project\textsuperscript{190}

The Family Acceptance Project works to prevent health and mental health risks for lesbian, gay, bisexual, and transgender (LGBT) children and youth, in the context of their cultures, families, and faith communities.\textsuperscript{191} It utilizes a research-based, culturally grounded approach to help ethnically, socially, and religiously diverse families support their LGBT children.\textsuperscript{192} The project was designed to:

a) Study parents’, families’ and caregivers’ reactions and adjustment to an adolescent's coming out and LGBT identity.

b) Develop training and assessment materials for health, mental health, and school-based providers, child

\textsuperscript{185} Id.
\textsuperscript{186} Id.
\textsuperscript{187} Id.
\textsuperscript{188} Id.
\textsuperscript{189} Id.
\textsuperscript{190} Overview, Fam. Acceptance Project [hereinafter Fam. Acceptance], https://familyproject.sfsu.edu/overview [https://perma.cc/4VTL-EKZ4].
\textsuperscript{192} Id.
welfare, juvenile justice, family service workers, clergy and religious leaders on working with LGBT children, youth and families.

c) Develop resources to strengthen families to support LGBT children and adolescents.
d) Develop a new model of family-related care to prevent health and mental health risks, keep families together and promote well-being for LGBT children and adolescents. Findings are being used to inform policy and practice and to change the way that systems of care address the needs of LGBT children and adolescents.\textsuperscript{193}

Actions can be taken in accordance with each of these models to exponentially increase family involvement, address trauma, and improve the depth and quality of relationships. Utilization of the activities and strategies contained within these practice models will bring the child and youth closer to the establishment of safe and affirming relationships that improve well-being and maintain the family’s connection to kin. Many of these activities and strategies can be levered prior to the family’s involvement in the system to prevent unnecessary entries, or to reduce trauma if removal is required.\textsuperscript{194}

These strategies and activities can also be applied throughout the course of child welfare involvement to meet the legislative intent noted above. The actions or components outlined above, if implemented in a meaningful way, could and should be considered during court proceedings where a reasonable efforts finding is required. The attached checklist could be utilized by the court or any stakeholder to discuss activities that have been used.\textsuperscript{195}

To date we have not taken the time and effort needed to ensure all information about family notification and involvement is before the judicial officer at each of the crucial hearings where reasonable efforts is required.\textsuperscript{196}

We can alter this trajectory by working to maintain the youth and family’s existing support network early in the case, while continuing to build upon that support network throughout the life of the case and provide that information during these hearings. At every possible opportunity, we should ask: What can we be doing right now to ensure this child can safely remain with family?

\textsuperscript{193} Fam. Acceptance, supra note 190.
\textsuperscript{194} See id.
\textsuperscript{195} See Appendix A.
\textsuperscript{196} See Enhanced Resource Guidelines, supra note 55, at 109; Edwards, supra note 53, at 277.
C. Preparing Ourselves

Typically, the child welfare system’s focus is on the parent’s ability to reunify, which is the preferred permanent plan.\(^1\) Meanwhile, the child is languishing in care.\(^2\) As a result, there is often a failure to provide for children’s short-term and long-term emotional needs when the state intervenes in the lives of their parents.\(^3\) Because children are unable to maintain a sense of belonging, self-worth, and connectedness,\(^4\) they leave care worse off than when they entered.\(^5\)

When we recognize that some of the work we so passionately pursue is not moving a youth toward permanency, it is critical to take a brief pause or step back to refocus and align our time with the youth and family. First, every child welfare professional who works with the youth and family must understand what permanency truly is (i.e., a sense of belonging) and what it means to that particular youth and family. Because permanency is not a term that families typically use, the development of meaningful dialogue is essential to understanding the people and relationships that are important to this youth.\(^6\) From a practice perspective, it is important to help facilitate a discussion in which the child and adults determine what they want and need to (1) promote reciprocal and sustainable relationships and (2) meet the child’s needs for belonging and identity.

Second, child welfare professionals need to truly believe that permanency is possible for every child they serve.\(^7\) Then, they must plan accordingly and relentlessly advocate for it. With every contact we have with the family and youth, we need to ask about “family.”

\(^{198}\) See AFCARS REPORT, supra note 85.
\(^{201}\) See AGING OUT, supra note 119, at 5.
\(^{202}\) Rosemary J. Avery, An Examination of Theory and Promising Practice for Achieving Permanency for Teens Before the Age Out of Foster Care, 32 CHILD. & YOUTH SERVICES REV. 399, 399 (2010).
Finally, we need to ensure that the necessary leadership is in place and committed to this plan of permanency. Of special importance is judicial leadership, particularly at the most critical times in a child welfare case, such as the shelter-care hearing, the six-month review hearing, and the permanency hearing.

IV. STRATEGIES FOR SYSTEM STAKEHOLDERS

Start in your community by building a system collaborative. All child welfare stakeholders, including the court, must work together to discuss how family members can be incorporated into the reasonable efforts findings and orders. Since these findings are made on a case-by-case basis, the collaborative could develop a systematic approach to which family engagement strategies and activities discussions would be the norm. This standard approach must be designed to enhance and embrace family involvement which will ensure that children do not enter the foster care system, unless it is a necessity. When, as a last resort, a child or youth needs to come into care, the court must lead the way to ensure that the young person can live with an appropriate relative and/or important connection.

Each participant in the child welfare system should follow the recommended strategies.

A. Judicial Officer

In its role as gatekeeper, the court can intercede whenever a child is at risk of “foster care drift.” By requiring a more thorough discussion with all stakeholders about how family is involved and requiring these actions for a favorable reasonable efforts determination, the judicial officer will be setting a clear path to permanency for all those who come to the attention of the child welfare system. Thus, the court can stop the flow of needless

205 BENCHCARD, supra note 57, at 6; ENHANCED RESOURCE GUIDELINES, supra note 55, at 107.
206 ENHANCED RESOURCE GUIDELINES, supra note 55, at 25.
208 Edwards, supra note 19, at 13–14.
removals and placements that perpetuate situations where children and youth are unlikely to ever achieve permanency.\textsuperscript{211} For the child welfare system to truly meet the needs of vulnerable children and their families, judicial determinations from the onset must be as thoughtful, evidence-informed, and permanency-focused.

\section*{B. Attorney for Child/Youth}

The attorney for the child has an additional duty to seek out information and conduct an independent investigation of potential family supports.\textsuperscript{212} It is incumbent upon the attorney to discuss with the child who is important to him or her, whether kin, family friends, or other involved individuals in the community.\textsuperscript{213} This can be accomplished through probative type questioning.\textsuperscript{214} Identifying relatives, important connections, and people who the child trusts is critical not only for keeping the child connected in the early stages of the child welfare intervention process, but for helping the child to build/maintain a lifelong network of supports.

\section*{C. Attorney for Parent}

The attorney for either the mother, father, or child’s guardian also has the opportunity to discuss with his or her client about how large their family might be. Rather than asking the parent who would be able to take their child for placement, the attorney can find out who the parent trusts or looks to for support to generate a list of important connections to support the parent throughout their involvement with the child welfare system and beyond. This information can be especially crucial if the parent is seeking reunification.

\begin{itemize}
\item \textsuperscript{211} NAT’L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, \textit{KEY PRINCIPLES FOR PERMANENCY PLANNING FOR CHILDREN} 1 (2011), http://www.ncjfcj.org/sites/default/files/keyprinciples.final_.permplanning.pdf [https://perma.cc/E7QG-CJU7].
\item \textsuperscript{212} JENNIFER L. RENNE, \textit{LEGAL ETHICS IN CHILD WELFARE CASES} 7 (2004), http://www.americanbar.org/content/dam/aba/administrative/child_law/2004_LegalEthics.authcheckdam.pdf [https://perma.cc/K779-9ZZS].
\end{itemize}
D. Court Appointed Special Advocate (CASA)

The CASA can continuously advocate for and support connectedness and permanency for the child in a variety of ways. These may include: (1) helping to support contact with siblings and extended family; (2) promoting curiosity about and enhancing discovery of family members by asking who else has loved or cared for the child; (3) holding hope for the child to thrive and succeed; (4) acting as a convener to help build an unconditionally committed permanency team; and (5) helping to ensure that the child’s needs are identified and at the center of all planning and interventions.\textsuperscript{215} The CASA should always be asking: What are we doing to address the child’s need and desire to belong?

E. Child Welfare Worker

For child welfare workers, meeting the intent of federal legislation requires a recognition that safety and well-being cannot exist without permanency.\textsuperscript{216} From a practice perspective, this means adopting a laser-like focus on establishing and embracing an asset base of support for young people and their parents as a primary intervention from their first involvement with the child welfare system. When government intervention is determined to be necessary, the worker can strategize with known family and connections to minimize trauma and disconnection from parents and loved ones. By recognizing that placement is a system-driven need rather than an individual need for young people, the child welfare worker can emphasize the establishment of enduring natural support networks to promote permanency for children and youth, rather than relying upon a smaller and less committed pool of placement options. Workers must embrace the belief that families can solve their problems and that permanency is possible for every young person.\textsuperscript{217} By respecting and treating family members as experts in their own matters, the child welfare worker will create ample opportunity for kin to participate safely in the lives of children at risk of profound and debilitating loneliness. Since the quality of relationships is critical to the success of permanency planning efforts, workers must increase their time spent on getting to know people outside of their problems. By shifting from a role that decides the fate of young people in care to one that encourages and nourishes natural support networks to

\textsuperscript{215} What Does It Mean to be a CASA Volunteer?, Ct. APPOINTED SPECIAL ADVOCATS. (2017), http://www.casaforchildren.org/site/c.mtJSJ7MPlsE/b.6350721/k.112A/What_Does_It_Mean_To_Be_a_CASA_Volunteer.htm [https://perma.cc/AP2D-6XFG].

\textsuperscript{216} See Avery, supra note 202, at 399.

\textsuperscript{217} See id. at 402.
solve family challenges, the child welfare worker and their agencies will manifest the honor and respect that families deserve.

V. CONCLUSION

The reasonable efforts requirement has been in effect for over thirty-five years in child welfare law; however, it continues to be underutilized, misinterpreted, and in many cases, ignored. To fulfill the intent of this vital federal legislation, the courts, child welfare agencies, and other stakeholders should embrace and implement a clear approach that incorporates family-centered, evidence-informed practices designed to support children to remain safely at home, return to family, or remain with family and kin at the earliest point possible.

While there may indeed be children and youth who require the state to assume the role of parent because there is no other alternative, most young people have relatives, family friends, neighbors, and important connections that are underutilized or ignored in the prevention of removal and the permanency planning process. If system professionals are able to identify and reach out to these adults early and often, not only will they have met the reasonable efforts requirements, but they will have helped to build lifelong family support networks that enable young people to thrive during and well beyond childhood.

218 Blome, supra note 1, at 141; Shotton, supra note 19, at 223–26; Edwards, supra note 53, at 23; Ratterman et al., supra note 32, at 13.

219 Youth Transition Funders Grp., supra note 209, at 20.
## APPENDIX A

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<th>Highlighted Components</th>
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<td></td>
<td>☐</td>
<td>Safety Circles</td>
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<td></td>
<td>☐</td>
<td>Harm and Danger Statements</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>How many people can be in your living room in an hour?</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Getting to know people outside of their problems</td>
</tr>
<tr>
<td><strong>Family Finding</strong></td>
<td>☐</td>
<td>Who can safely care for the child to avert entering care including non-custodial parent?</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Who is related to or connected to this child and family on the planet?</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Who can safely be/stay involved and connected to this child and family?</td>
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<tr>
<td></td>
<td>☐</td>
<td>Who can come to the table and participate in planning and decision making to promote safety, permanency and well-being?</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Who will remain a part of the support network and how can they best contribute?</td>
</tr>
<tr>
<td><strong>Dr. Darla Henry’s 3-5-7 Model and Program</strong></td>
<td>☐</td>
<td>Providing fundamental instruction, practice, and guidance towards building healing relationships that explore losses through grief work with children, parents, extended and chosen family members</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Emphasizing 24/7 interaction and response to behaviors that are indicators of the pain being experienced from losses</td>
</tr>
<tr>
<td></td>
<td>☐</td>
<td>Identifying a framework to support grief and relationship-building work through the tasks of clarification, integration, and actualization towards readiness for decisions to be made for permanency in relationships</td>
</tr>
<tr>
<td>Family Group Counseling/Decision Making</td>
<td>Recognizing and supporting the advanced development of the skills of all those who engage with families and young people in supporting their work</td>
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<td>----------------------------------------</td>
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<tr>
<td>☐</td>
<td>An independent (i.e., non-case carrying) coordinator is responsible for convening the family group meeting with agency personnel</td>
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<tr>
<td>☐</td>
<td>The child protection agency personnel recognize the family group as their key decision-making partner, and time and resources are available to convene this group</td>
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<tr>
<td>☐</td>
<td>Family groups have the opportunity to meet on their own, without the statutory authorities and other non-family members present, to work through the information they have been given and to formulate their responses and plans</td>
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<tr>
<td>☐</td>
<td>When agency concerns are adequately addressed, preference is given to a family group's plan over any other possible plan</td>
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<td>☐</td>
<td>Follow-up processes after the family group decision making meeting occur until the intended outcomes are achieved, to ensure that the plan continues to be relevant, current and achievable, because family group decision making is not a one-time event but an ongoing, active process</td>
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<tr>
<td>☐</td>
<td>Referring agencies support family groups by providing the services and resources necessary to implement the agreed-upon plans</td>
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<tr>
<td>Family Acceptance Project</td>
<td>Study parents', families' and caregivers' reactions and adjustment to an adolescent's coming out and LGBT identity</td>
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<td>☐</td>
<td>Develop training and assessment materials for health, mental health, and school-based providers, child welfare, juvenile justice, family service workers,</td>
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<tr>
<td>clergy and religious leaders on working with LGBT children, youth and families</td>
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<td>☐ Develop resources to strengthen families to support LGBT children and adolescents</td>
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<tr>
<td>☐ Develop a new model of family-related care to prevent health and mental health risks, keep families together and promote well-being for LGBT children and adolescents. Findings are being used to inform policy and practice and to change the way that systems of care address the needs of LGBT children and adolescents</td>
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</tbody>
</table>