

## **Montana Supreme Court**

### **Court Improvement Program**

### **Project Update – Fall 2019**

The Court Improvement Program (CIP) is a small federal grant allocated to each state to improve the legal process for children in foster care. CIP works collaboratively with DPHHS Child & Family Services Division, Office of the Public Defender, and the groups representing prosecuting attorneys to improve the quality of legal services provided to children and families in state courts.

The program has three grants of approximately \$100,000 each, one of which – called the basic grant – has a 25% general fund match. (A non-federal share is required for each grant at the rate of 25% of the total budget. For example, a \$100,000 grant requires a contribution of \$25,000 to receive federal funds totaling \$75,000. CIP's remaining two grants get their matches from non-state sources.) CIP supports a .5 FTE and several projects throughout the state. Some of CIP's projects are determined by the federal Children's Bureau and are guided by an advisory committee comprised of professionals involved in child abuse cases, including judges, attorneys, CFSD staff, and other child welfare professionals. Others are determined by CIP staff and the advisory committee.

*Montana CIP is working on the following projects:*

**1. Pre-Hearing Conference (PHC) Pilot Project: Takes place in Lewis & Clark, Gallatin, Flathead, Missoula, Park, Sweet Grass, and Yellowstone counties.**

The PHC is a facilitated conversation among the parties that occurs before the initial Show Cause Hearing. The participants comprise the parents, child protection specialists, attorneys, CASAs, foster parents, family members, treatment providers, and children, if mature enough. The facilitator is court-trained and under contract with the CIP program.

*The purpose of a PHC is to talk about the three main issues in the case:*

- The child's placement, and options for placement;
- Visitation between parent and child, and plans for improving visitation; and
- Treatment services for the family.

The goal is to establish a mutual understanding of what is in the best interest of the children, and to begin working as a team toward the reunification of the family. A PHC provides a better vehicle for parent-child input, so more individualized treatment plans can be created, leading to more effective services, leading to faster time to permanency and increased reunifications.

Montana has collected and analyzed data for the PHC pilot project, which takes place in six judicial districts across Montana. The data show permanency is being achieved faster with a PHC than without one. The number of days from filing to the development of a treatment plan has decreased, and PHC's have increased buy-in from the parties. In fact, the analysis shows that if parents attended the PHC, they were more likely to reunify. The PHC pilot project has been operating since 2015. *The data analysis is attached.*

**2. Quality Legal Representation (QLR)**

Due to anecdotal accounts of uneven legal representation in child abuse and neglect cases, Montana CIP is undertaking a QLR project to determine what legal representation in Montana looks like. The project involves surveying the various parties involved in legal representation and using those results to guide future activities. As an aside, the federal Children's Bureau, which funds CIP, will be requiring all states to work on a QLR project in the next few years.

**3. Dependency and Neglect Pilot Court Project (DN Pilot Court)**

This project is in the planning stages, but the intent is to build onto the existing PHC project in Yellowstone County in two additional departments by adding timely access to substance abuse evaluation and treatment and developing and implementing protocols for unsupervised visitation. The overarching goals of this project are to reunify families, get parents involved at the outset of a case, obtain better assessment of parents' abilities and needs, provide services from the outset, resolves cases in a timely manner, and safely return kids to their families as quickly as possible.

*A sample flow chart of the pilot project is attached.*

There has been discussion that if the project goes well in Yellowstone County, it's possible for it to be expanded to Flathead and Cascade counties.

*Other projects on CIP's radar are:*

**4. Family First Prevention Services Act (FFPSA)**

FFPSA was passed by Congress in February 2018 and redirects the way states are reimbursed for services. For the first time, the federal government will pay states for evidence-based programs aimed at keeping kids in their homes rather than placing them in foster care. Mental health care, in-home parenting programs, and substance abuse treatment will now be covered. The goal is to focus on prevention, keep kids with their parents if possible, and limit the time children spend in group facilities.

CIP's will be required to train attorneys and judges on the FFPSA when DPHHS fully implements the law's provisions. The Children's Bureau has instructed CIPs to postpone training until their child welfare agencies are ready to fully implement FFPSA. When the time comes, training throughout the state will be necessary.

**5. Title IV-E Access to Montana OPD**

FFPSA also allows OPD to access IV-E funding through DPHHS to provide legal representation for the children and parents. A MOU between OPD and Child & Family Services Division could include engaging specialized attorneys, social workers, peer mentors, and therapeutic case managers to work with parents and children. It could also include representation of parents and children on other legal issues that directly relate to preventing children from being removed from their parent's care or being returned to their parent's care after removal. This provision of FFPSA will reimburse OPD for some of the cost of public defender services in child abuse and neglect cases.

**6. ICWA Baseline Measures Project, Capacity Building Center for Courts**

In 2018, the CBCC invited Montana, Minnesota, and Colorado to participate in what was called the Indian Child Welfare Act (ICWA) Baseline Measures Project to examine data on child welfare performance specifically related to ICWA compliance. Since Congress passed ICWA in 1978, very little data have been collected on adherence to the law. After the CBCC issues the final draft of its report, the results will be used for training judges and others in the child welfare system about ICWA.