

Testimony of
Nancy C. Detert
Florida State Senator, District 28

U.S. House Committee on Ways and Means, Subcommittee on Human Resources
Hearing on Letting Kids Be Kids: Balancing Safety with Opportunity for Foster
Youth
May 9, 2013

Good morning Chairman Reichert, Ranking Member Doggett and the Members of the Subcommittee. I am honored to be here and thank you for the opportunity to participate in the hearing today.

I am Nancy Detert. I served in the Florida House of Representatives from 1998 to 2006 and was elected to the Florida Senate in 2008. I represent a district that consists of Sarasota, and part of Charlotte counties. I have chaired or served as a member of the substantive committees in both the House and the Senate that have jurisdiction over issues that affect either children currently in the foster care system or young adults who have aged out of that system, every year that I've been in office. I have been asked to share with you information on legislation recently enacted in Florida relating to normalcy for children who are in the foster care system.

The foster care system has historically been focused on safety and concerns about liability and this has often created huge barriers to the normalcy of a child's experiences growing-up. Liability issues are particularly acute in Florida because we have privatized the provision of foster care and other related services. As a result of the emphasis on safety and those liability concerns, children in care typically miss many rites of passage common to their peers. While their friends are getting their driver's licenses, most children in care are not because they generally have no one to teach them to drive or lack the money for insurance or driver's education, let alone access to a car.¹ Getting a first job, participating in sports, camping with friends, and even going to the prom are all examples of activities that are a normal part of growing up for many children, but not as common an experience for children in foster care.²

¹ Martha Shirk & Gary Stangler, *On Their Own*, at vi (1st ed. Basic Books 2004).

² *Id.* at vi and 1.

These problems are further compounded for children who live their teen years in group homes. These children are not only less likely to participate in age-appropriate activities, but also do not benefit from typical experiences that would help prepare them for adult life. These experiences include seeing an adult pay bills each month, do the laundry, buy groceries, pay taxes, arrange for car insurance, and other tasks required to run a household.³ Because Florida is currently overly reliant on group home placements, this was also a concern when contemplating legislation.

The issue of normalcy for children in foster care has been addressed in the past. In 2004, the Florida Legislature required the Department of Children and Families⁴ to:

- *Develop a list of **age-appropriate activities and responsibilities** to be offered to all children involved in independent living transition services and their foster parents.*
- *Provide training for staff and foster parents to address the issues of older children in foster care in transitioning to adulthood, which shall include information on supporting education and employment and providing **opportunities to participate in appropriate daily activities**.*
- *Develop procedures to **maximize the authority of foster parents to approve participation in age-appropriate activities** of children in their care.*
- *Develop and implement procedures for older children to **directly access and manage the personal allowance** they receive from the department in order to learn responsibility and **participate in age-appropriate life skills activities** to the extent feasible.⁵*

The same legislation also required the department to promulgate a rule that was to include procedures to balance the goals of normalcy and safety for children in foster care and provide caregivers with as much flexibility as possible to enable children to participate in normal life

³ First Star and Children's Advocacy Institute of the University of San Diego School of Law, *The Fleecing of Foster Children: How We Confiscate Their Assets and Undermine Their Financial Security*, at iii (2011). Available at http://www.caichildlaw.org/Misc/Fleecing_Report_Final_HR.pdf.

⁴ The Department of Children and Families(department) is the state agency in Florida that has jurisdiction over the child welfare system.

⁵ Chapter 2004-362, Laws of Florida.

experiences.⁶ The administrative rule developed by the department pursuant to this legislation provides for the following:

- *Requires caregivers to afford children every opportunity for social development, recreation, and normalcy of their lives. Children in licensed out of home care may attend overnight or planned outings if the caregiver approves activities as safe and appropriate. The case worker must be notified of the activity.*
- *Authorizes caregivers to allow foster children to attend activities without adult supervision depending on the child's age, maturity, and ability to make appropriate decisions. However, the caregiver must be prudent and conscientious about circumstances where the child is granted independence, including trips to the movies, mall, athletic events and work.*
- *Requires the child's services worker to approve overnight trips exceeding one night. These trips must not interrupt visitation.*
- *Provides that background checks are not required for normal school and community activities, such as dating and outings, school field trips, Cub Scout campouts, and activities with friends, families, and school and church groups.⁷*

Former secretaries and the current secretary of the have also issued memoranda requiring the private agencies responsible for foster care services and their providers to implement policies related to normalcy. Despite these measures, we continue to hear concerns about the lack of normalcy in the foster care setting. Data tells us that those concerns are warranted.

The Department of Children and Family Services has implemented two surveys to capture data related to independent living services and outcomes. The My Services Review Survey captures information from children 13 to 17 years of age and the National Youth in Transition Database Survey captures data and tracks outcomes on young adults 18 to 22 years of age. In the latest My Services survey children in foster care have reported:

- **66%** *are able to spend time with friends without adult supervision.*

⁶ *Id.*

⁷ Rule 65C-13.029(1)(g)7.9., 10, and 11a., F.A.C.

- **46%** can spend the night with friends.
- **53%** receive a personal allowance each week.
- **44%** are allowed to go to school events, movies, shopping and other unsupervised activities with friends.
- **14%** have completed a driver's education course.
- **2%** have a driver's license.⁸

I learned early in my legislative career that if you want to make good law, you listen to the people whose lives are going to be affected by that law and if you want to know what's going on in the foster care system – you ask the kids who are in the system and the young adults who have aged out of the system.

In Florida, we are fortunate to have a group of older teens and young adults known as Florida Youth SHINE.⁹ Youth SHINE is a peer driven organization that empowers young advocates across the state who regularly identify the challenges and help create solutions related to growing up in the child welfare system. Membership is open to all children and young adults between 13-24 years of age who were ever involved with Florida's child welfare system.

One of their goals is to share their stories and experiences in order to improve the system of care for those children currently in care and for those who have yet to enter care. They are always available to educate key policy makers and organizations throughout Florida on key issues related to growing up in foster care. During this past legislative session, more than 40 members met with 60 legislators and testified at 14 committee meetings in order to support legislation that will affect the lives of over 19,000 children and young adults.

Two of the young adults who provided public testimony to the Senate Committee on Children, Families and Elder Affairs at a committee meeting during the recent 2013 legislative session told stories that need to be shared:

⁸ Florida Department of Children and Families, *My Services: Answers from Youth in Foster Care*, Fall 2012 Survey Report. Available at <http://www.dcf.state.fl.us/programs/indliving/docs/MyServicesSurveyAges13-17FALL2012.pdf>.

⁹ SHINE stands for Striving High for Independence aNd Empowerment.

A young woman began by thanking the committee for allowing her voice to represent the voices of 31,000 kids who were in her situation. She continued with "When you think of normalcy, you think of what everyone else is doing. When I think of normalcy, I think of going back and forth to court for orders to allow me to do things like going to a basketball game or spending the night with friends."¹⁰

A young man recounted his days playing high school football. During his senior year, his team was fortunate enough to play for the state championship and attending the game meant having to spend one night out of town. He was notified by his caseworker on Tuesday before the game on Thursday that he did not have permission from the court to make the trip. His primary concern was disappointing his coach and his team because he was the starting kicker and punter. The day the team was to leave, he was allowed to travel to the game. They won the state championship by one point because he completed a kick during overtime.¹¹

One of the things that House and Senate committees heard again and again during the past legislative session – from both members of Youth SHINE and volunteer guardians ad litem – was that the best foster parents had to break the rules in order to provide normalcy for children in their care. Any legislation designed to achieve normalcy in the lives of children in foster care must empower foster parents and make them feel supported in providing opportunities for children in their care to participate in age appropriate activities. The Florida Legislature has been hesitant to do that because there have been too many injuries and deaths that have occurred as a result of children being placed with incompetent foster parents.

That is changing in our state. As a result of a statewide initiative that is a joint project of the Youth Law Center, the state child welfare agency, private providers, and the Eckerd Family Foundation, Florida is able to recruit and retain increasing numbers of quality foster parents. The Quality Parenting Initiative (QPI) is designed to promote quality care for children in foster care by redefining the expectations and roles of foster parents. The QPI was developed to help participants develop new strategies and practices, rather than imposing a predetermined set of "best practices." The core premise of the initiative is that the primary goal of the child welfare

¹⁰ Senate Committee on Children, Families and Elder Affairs. Committee Meeting. February 5, 2013.

¹¹ *Id.*

system is to ensure that children have effective, loving parenting. The best way to achieve this goal is to enable the child's own parents to care for him or her. If that isn't possible, the system must ensure that the foster or relative family caring for the child provides the caring, committed, skilled care that the child needs, while working effectively with the system to reach the child's long term goals.¹²

QPI recognizes that the traditional foster care "brand" has negative connotations and this makes it difficult to find families willing to participate in the process. QPI is an effort to rebrand foster care, not simply by changing a logo or an advertisement, but by changing the core elements underlying the brand. When these changes are accomplished, QPI participants are better able to develop communication materials and to design recruitment training and retention systems for foster parents. The key elements of the QPI process are:

- To define the expectations of caregivers;
- To clearly articulate these expectations; and then
- To align the system so that those goals can become a reality.¹³

Another invaluable partner in the success of recently enacted legislation has been the Florida Statewide Guardian ad Litem Program. Volunteer guardians ad litem, who typically spend more time with the children they are assigned to than caseworkers, have recounted many situations when children they are working with have not been allowed to engage in activities common for children their age. A recent article written by the director of the Program highlights the need to codify changes to empower foster parents:

Parenting requires a person who can make reasonable decisions at the time the decisions need to be made. We trust foster parents to care for our dependent children 24/7, yet they have not legislatively or, in reality, been granted the authority to make day-to-day decisions for their foster child, without a bureaucracy interfering with decision-making...

¹² Quality Parenting Initiative. Center for Child Welfare. Available at <http://qpiflorida.cbcs.usf.edu/pages/About/About.html>.

¹³ *Id.*

There is no need to hold a "staffing" for any decision that parents routinely make for their biological children, and no need for lawyers to sit around a table and speculate about liability if something bad were to happen during a normal activity... Although foster parents will often consult friends, family members, clergy and experts as decisions come up, the authority to make these decisions needs to rest with the foster parent...

With these thoughts in mind, it is clear that although "normalcy" is often discussed, what we really need is for caregivers in foster care to have permission to parent. This is why legislation is needed to ensure that foster parents and other caregivers have the authority to make real-time decisions for children as any "reasonable and prudent parent" would do for their own child.¹⁴

During the 2013 legislative session, two significant pieces of legislation were enacted. One was signed into law by the Governor on April, 11th and the second is awaiting the Governor's signature. We believe they will improve the lives of children who are still in the foster care system as well as young adults who have aged out of the system and that they will provide our foster parents with the support they need to truly parent the children in their care. Our success this session is reflective of the hard work and dedication of the young members of Youth SHINE who represent the voices of all children and young adults within the child welfare system; the excitement and enthusiasm emanating from our foster parents who have embraced the Quality Parenting Initiative; and the care and compassion of countless volunteers who serve as guardians ad litem in our state under the guidance of the Florida Statewide Guardian ad Litem Program.

Together the bills contain the following provisions related to providing normalcy for children in foster care and empowering foster parents to truly be parents:

- Creation of a "reasonable and prudent parent standard" that is a standard of care to be used by a caregiver in order to determine whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is

¹⁴ Alan Abramowitz, Director, Florida Statewide Guardian ad Litem Program. *Foster Care System Lacks 'Normalcy'* January 18, 2013.

characterized by careful and thoughtful parental decisionmaking that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

- Facilitation of the ability of the caregiver to approve activities for foster children, without fear of civil liability. The specified reasonable and prudent parent standard governs whether a caregiver may be held liable for harm to a foster child while engaged in activities approved by the caregiver.
- Transfer of the responsibility of teaching daily independent living skills for children 13 to 17 years of age from private providers to the foster parents.
- Provision of requirements and expectations for foster parents and group home parents and providers.
- Provision of requirements and expectations for the state child welfare agency, the private lead agencies, and their providers related to their relationship with foster parents.
- A requirement for the provision of adequate training and support for foster parents, the inclusion of foster parents in a full and equal respectful partnership with other participants in the child welfare system, and the authority for foster parents to assist in meeting the goals of the child and the family;

Clearly, Florida still has work to do in order to assure that every child in foster care is allowed to engage in age appropriate activities. Foster parents who are involved in the Quality Parenting Initiative are years ahead of the typical caseworker in terms of understanding bonding and attachment issues as well as in being more child-centered and less regulation-centered. That has to change. Caseworkers must come up to the same level of competence. Knowing that normalcy for children is harder to obtain for children who are in group home placements – many of which rely on shift workers – we need to address Florida's over reliance on these types of placements. My colleagues in the Florida Senate and I are committed to making life better for all children in foster care and all young adults who have aged out of the system.

Thank you for your time today and for the interest of the Subcommittee in providing children in foster care with the opportunity to engage in normal everyday activities just like their peers who are not involved with the child welfare system.