

Examining the Implementation of Rylan's Law and Disparate Impact in North Carolina



A Report of the
North Carolina Advisory Committee to the
U.S. Commission on Civil Rights

May 2025

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights (Commission) has established an advisory committee in each of the 50 states, the District of Columbia, and the U.S. Territories. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Letter of Transmittal to the U.S. Commission on Civil Rights

North Carolina Advisory Committee to the U.S. Commission on Civil Rights

The North Carolina Advisory Committee to the U.S. Commission on Civil Rights submits this report examining the impact of Rylan’s Law, a 2017 law that requires more oversight in child custody cases. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of North Carolina. The contents of this report are primarily based on testimony the Committee heard during web briefings on June 27, 2024; July 12, 2024; July 24, 2024; August 7, 2024; August 23, 2024; and September 27, 2024. It also includes written testimony submitted within the Committee’s project timeline.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from this testimony, as well as recommendations for addressing areas of civil rights concerns related to state intervention in the child welfare system since the passage of Rylan’s Law, including any disparities that were created and/or reinforced based on race, color, age, disability, or other federally protected category and any denial of equal protection of the law in the administration of justice. While additional important topics may have surfaced throughout the Committee’s inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion.

North Carolina Advisory Committee to the U.S. Commission on Civil Rights

Olga Morgan Wright, *Chair*, Greensboro**

Amalia Restucha, *Vice Chair*, Raleigh**

Daniel Bowes, Burlington**

Pearl Burriss-Floyd, Dallas

Travis Cook, Gastonia

Christopher Duggan, Weddington

Marcus Gadson, Fuquay-Varina

Steven Greene, Cary

Jonathan Guze, Durham

Jennifer Lechner, Garner*

Angelo Mathay, Raleigh (*recused from project*)

Patrick Mincey, Wilmington*

Donna Oldham, Winston-Salem

Catherine Read, Raleigh**

Gregory Wallace, Fuquay-Varina

Bradley Young, Raleigh*

*Resigned prior to the end of the charter

** Submitted Statement (See Appendix C for Committee member statements)

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Project Overview

On March 20, 2024, the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study examining the impact of Rylan’s Law, a 2017 law that requires more oversight in child custody cases. The focus of the Committee’s inquiry was to examine instances of state intervention in the child welfare system since the passage of Rylan’s Law, including any disparities that were created and/or reinforced based on race, color, age, disability, or other federally protected category and any denial of equal protection of the law in the administration of justice with the intention of identifying areas for improvement and developing recommendations accordingly.

As part of this inquiry the Committee received a significant amount of testimony during public briefings via web conference on June 27, 2024; July 12, 2024; July 24, 2024; August 7, 2024; August 23, 2024; and September 27, 2024.¹ The Committee invited several stakeholders with a range of backgrounds to provide testimony during their briefings. A list of these individuals can be found in Appendix A.

The following report results from a review of testimony provided at these meetings including those shared during the public comment period, written testimony, and relevant resources submitted during its inquiry period. The report begins with a brief background on the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony that align with the Committee’s scope. Finally, it makes recommendations for addressing related civil rights concerns. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. These topics may be discussed in the Committee statements attached.² This report and the recommendations included within it were adopted by a majority of the Committee on May 6, 2025.

The Committee appreciates the willingness of panelists, stakeholders, and members of the public who have shared their testimony during this project.

¹ Meeting records and transcripts are available here:

<https://usccr.app.box.com/s/vwdt6b0xgdcbvxlpenf5stwg1bmjadcf>.

Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, June, 27, 2024, (web-based), Transcript (hereinafter cited as “6/27/24 *Web Briefing*”); Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, July 12, 2024, (web-based), Transcript (hereinafter cited as “7/12/24 *Web Briefing*”); Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, July 24, 2024, (web-based), Transcript (hereinafter cited as “7/24/24 *Web Briefing*”); Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, August 7, 2024, (web-based), Transcript (hereinafter cited as “8/7/24 *Web Briefing*”); Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, August 23, 2024, (web-based), Transcript (hereinafter cited as “8/23/24 *Web Briefing*”); Briefing before the North Carolina Advisory Committee to the U.S. Commission on Civil Rights, September 27, 2024, (web-based), Transcript (hereinafter cited as “9/27/24 *Web Briefing*”).

² See Appendix C for Committee Member Statements.

Lastly, the Committee dedicates this report to all the children and their families affected by the child welfare system in North Carolina.

Background

The North Carolina Advisory Committee (Committee) seeks to examine instances of state intervention in the child welfare system since the passage of Rylan’s Law, including any disparities that were created and/or reinforced based on race, color, age, disability, or other federally protected category and any denial of equal protection of the law in the administration of justice to identify areas for improvement and develop recommendations accordingly.³

North Carolina is one of only nine child welfare systems in the country that is primarily administered by counties with minimal state oversight in the delivery of child welfare services, like foster care, adoption, and protective services.⁴ This disaggregated structure, along with understaffing, unqualified personnel, and differential county funding, has created a crisis in North Carolina’s child welfare system. On any given day, there are 10,000 children involved in the system, and the services they receive vary greatly based on the discretion of the Department of Social Services (DSS) and the county where the children reside.⁵ Reports of gross negligence, criminality, and harm to children, including death, led to the passage of Rylan’s Law in 2017.⁶ The Law outlined provisions to completely reform North Carolina’s child welfare system and allowed the state to take control of county social services departments.⁷ Since its implementation, there have been continued reports of threats to child safety and the state has intervened in the operations of three separate counties.⁸

³ Ch. S.L. 2017-41 (H.B. 630).

⁴ Child Welfare Information Gateway, State vs. County Administration of Child Welfare Services, Factsheet, March 2018, <https://www.childwelfare.gov/resources/state-vs-county-administration-child-welfare-services/>

⁵ Children’s Bureau, An Office of the Administration of Children and Family: *Adoption and Foster Care Analysis and Reporting System (AFCARS) 2023*. <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-30.pdf>.

⁶ Ch. S.L. 2017-41 (H.B. 630); <https://www.ncleg.net/sessions/2017/bills/house/pdf/h630v6.pdf>.

⁷ Ibid.

⁸ Weiss, Mitch, Mohr, Holbrook. “North Carolina to take over child welfare office that illegally removed kids from homes.” ABC Channel 9 News. March 16, 2018. <https://newschannel9.com/amp/news/local/north-carolina-to-take-over-child-welfare-office-that-illegally-removed-kids-from-homes> (accessed December 19, 2023); North Carolina Department of Health and Human Services. “Initial Assessment of Bertie County DSS Child Welfare Services by DHHS.” June 10, 2022. https://www.documentcloud.org/documents/22084500-bcdss-child-welfare-initial-assessment-final_redacted#document/p4/a2124371 (accessed January 16, 2024); “State taking over Nash County DSS after child deaths.” September 11, 2023. WITN. <https://www.witn.com/2023/09/11/state-taking-over-nash-county-dss-after-child-deaths/> (accessed January 16, 2024).

Overview

According to data from the Children’s Bureau, in 2021 (the most recent data available), there were over 2.3 million children in North Carolina and over 21,000 of them were victims of child maltreatment, with the majority being under one year of age.⁹ According to the Children’s Bureau, a child victim is defined as a child for whom the state determined at least one maltreatment was substantiated or indicated.¹⁰ Of these children, the majority of them were identified as White (44.9 percent), followed by Black (32.5 percent) and Hispanic (11.6 percent), demographics that do not represent North Carolina’s population as a whole.¹¹ According to the North Carolina Child Fatality Task Force, nearly 1500 children died in 2022, the highest rate since 2009.¹² Notably, the North Carolina’s Office of the Chief Medical Examiner reported that the number of parent caregiver homicides, within the zero-to-11-month age group, has nearly tripled from 2021 to 2022.¹³ Additionally, allegations have been made against North Carolina Department of Health and Human Services that there is a pervasive and system-wide practice of unnecessarily housing children with disabilities in foster care in psychiatric residential treatment facilities, with this practice primarily impacting children of color.¹⁴ Furthermore, a practice known as “hidden foster care,” or “kinship diversion,” where a child protection agency will facilitate the move of a child to the care of kin, in lieu of seeking legal custody or providing economic or other supports, is also a factor that may contribute to the disproportionate impact families of color experience when faced with the maltreatment of a child.¹⁵

According to data released in 2023 by the Annie E. Casey Foundation, which analyzes factors contributing to child well-being in all 50 states, North Carolina ranks 33rd in the area of overall

⁹ U.S. Department of Health and Human Services, Children’s Bureau. “Data by State – North Carolina.” <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/north%20carolina.html> (accessed December 12, 2023).

¹⁰ Ibid.

¹¹ Ibid; *See also*: U.S. Census Bureau. “Quick Facts, North Carolina.” <https://www.census.gov/quickfacts/fact/table/NC/PST045223> (accessed January 19, 2024).

¹² North Carolina Child Fatality Task Force. “North Carolina Child Fatality Task Force Annual Report to the Governor and General Assembly.” April 2024, https://webservices.ncleg.gov/ViewDocSiteFile/87360?utm_source=Press+List&utm_campaign=57804b50d9-EMAIL_CAMPAIGN_2024_04_09_04_33_COPY_01&utm_medium=email&utm_term=0_-930880e87f-%5BLIST_EMAIL_ID%5D&mc_cid=57804b50d9&mc_cid=014ab28715; Putnam-Hornstein Testimony, 7/12/24 *Web Briefing*, p. 11.

¹³ North Carolina Office of the Chief Medical Examiner, “Child Fatality Annual Report” 2022, <https://www.ocme.dhhs.nc.gov/annreport/docs/2022ChildFatalityAnnualReport.pdf>; ¹³ North Carolina Office of the Chief Medical Examiner, “NC Child Fatality Prevention Team Annual Summary” 2021, <https://www.ocme.dhhs.nc.gov/nccfpp/2021ChildFatalityYearlySummary.pdf>; Putnam-Hornstein Testimony, 7/12/24 *Web Briefing*, p. 11.

¹⁴ *B. et al v. Kinsley* (2022), Middle District of North Carolina, 1:2022-cv-01046 (ncmd) <https://disabilityrightsncc.org/wp-content/uploads/2022/12/2022-12-06-Timothy-B-v-Kinsley-Complaint.pdf> (accessed February 22, 2024).

¹⁵ Casey Family Programs. “How is the practice of hidden foster care inconsistent with federal policy and harmful to children and families?” October 19, 2023. <https://www.casey.org/hidden-foster-care/> (accessed February 22, 2024).

This background section intends to provide a description of the circumstances that led to the passage of Rylan’s Law, the main goals of the law, main concerns regarding the child welfare system that were highlighted in official evaluations and plans before and after the passage of the law, ongoing issues in the child welfare system, and relevant federal laws and regulations associated with this topic.

Rylan Ott Case

In October 2015, 1-year-old Rylan Ott and his older sister were placed in foster care after their mother, Samantha Bryant, was charged with child abuse following a drunken fight involving guns in their home.²⁰ That December, a judge ordered that Samantha Bryant regain custody of her children, despite pleas from Rylan’s father, Corey Ott, and Rylan’s guardian ad-litem, Pamela Reed.²¹ The following Spring, in April 2016, Rylan was found drowned in a pond near his home in Moore County, North Carolina.²²

Pamela Reed and Rylan’s former foster parents were among the individuals who believed the Moore County Department of Social Services (DSS) failed to see red flags in Samantha Bryant’s behavior that could have resulted in a different decision for the custody of the children and this led them to push for an independent investigation into the matter.²³ In March 2017, DSS released an investigation which revealed significant failures in the case, including the fact that the social worker did not conduct supervised visits with Rylan and his mother, which is considered to be a best practice.²⁴ The investigation further stated that high caseloads and “chronic understaffing” during that time “contributed significantly to the findings of omissions and errors.”²⁵ The findings led to the abrupt resignation of Moore County Department of Social Services director John

²⁰ Ditmore, Eric. “Rylan’s law: a silver lining in the darkest cloud.” Campbell Law Observer. June 12, 2017. <http://campbelllawobserver.com/rylans-law-a-silver-lining-in-the-darkest-cloud/> (accessed January 4, 2024); *See also*: Sinclair, David. “Toddler’s Death Sparks ‘Rylan’s Law’ Effort.” The Pilot. April 7, 2017. https://www.thepilot.com/news/toddler-s-death-sparks-rylan-s-law-effort/article_8948e008-1bc8-11e7-826b-e3399be5576b.html (accessed January 4, 2024).

²¹ Ibid.

²² “Missing toddler identified as drowning victim in Moore County.” ABC 11 Eyewitness News. April 15, 2016. <https://abc11.com/moore-county-drowning-rylan-ott-toddler-drowned/1293557/> (accessed January 4, 2024).

²³ Sinclair, David. “Toddler’s Death Sparks ‘Rylan’s Law’ Effort.” The Pilot. April 7, 2017. https://www.thepilot.com/news/toddler-s-death-sparks-rylan-s-law-effort/article_8948e008-1bc8-11e7-826b-e3399be5576b.html (accessed January 4, 2024) (hereafter cited as Sinclair, *Toddler’s Death Sparks ‘Rylan’s Law’ Effort*).

²⁴ “Moore County DSS director resigns following toddler death investigation.” WRAL News, June 5, 2017. <https://www.wral.com/story/moore-county-dss-director-resigns-amid-toddler-death-investigation/16562527/> (accessed January 4, 2014); *See also*: Sinclair, David. “Toddler’s Death Sparks ‘Rylan’s Law’ Effort.” The Pilot. April 7, 2017. https://www.thepilot.com/news/toddler-s-death-sparks-rylan-s-law-effort/article_8948e008-1bc8-11e7-826b-e3399be5576b.html (accessed January 4, 2024).

²⁵ Sinclair, *Toddler’s Death Sparks ‘Rylan’s Law’ Effort*.

Benton.²⁶ Pamela Reed became a leading advocate for turning the best practice of supervised visitation into law in North Carolina and thus avoid future tragedies. These efforts were the basis for what would become known as Rylan’s Law.²⁷

2015 and 2016 Evaluations of the Child Welfare System in North Carolina

Prior to the passage of Rylan’s Law, evaluations were published in both 2015 and 2016 that raised significant concerns about the state of operations within the child welfare system in North Carolina and its effect on the well-being of children.

2015 Children’s Bureau North Carolina Child and Family Services Review Final Report

In 2015, the U.S. Department of Health and Human Services Children’s Bureau released a Final Report as part of its Child and Family Services Reviews (CFSRs) on North Carolina.²⁸ CFSRs are used on a national level and assess a state’s performance in the areas of safety, permanency and well-being. In the 2015 report, North Carolina was found not to be in substantial conformity in all of these areas.²⁹ Notably, the Children’s Bureau encouraged the state to examine its practices surrounding case closure to improve safety outcomes for children, after it was found that some cases were closed without addressing the presenting problem and the reason for agency involvement.³⁰ Other serious concerns for North Carolina included not adequately preserving the family relationships of children, not adequately enhancing the ability of families to provide for their children’s needs, caseworkers failing to consistently document in case plans and court orders the compelling reasons to support agency recommendations to cease reunification efforts, a lack of consistency and tracking of termination of parental rights processes, a lack of children’s and parents’ access to health services, particularly therapy and health providers who accept Medicaid, and the lack of a statewide case management information system.³¹

²⁶ “Moore County DSS director resigns following toddler death investigation.” WRAL News, June 5, 2017. <https://www.wral.com/story/moore-county-dss-director-resigns-amid-toddler-death-investigation/16562527/> (accessed January 4, 2014)

²⁷ Ch. S.L. 2017-41 (H.B. 630).

²⁸ U.S. Department of Health and Human Services Children’s Bureau. “Child and Family Services Reviews, North Carolina, Final Report.” December 2015. <https://www.ncdhhs.gov/documents/files/dss/publicnotices/nc-acf-cb-finalreport-020216/download> (accessed December 19, 2023). For more information on Child and Family Services Reviews, see: <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews>.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

2016 North Carolina Department of Health and Human Services Statewide Child Protective Services Evaluation

In 2016, the North Carolina Department of Health and Human Services Division of Social Services contracted the private consulting firm PCG to evaluate the state's child protective services system.³² The evaluation noted several problem areas including a lack of a statewide data information system, inconsistency across counties regarding definition and measurement of caseloads, administrative issues that have affected hiring and retention, inadequate funding methodology, and the need for a quality assurance review tool in addition to continued monitoring and oversight.³³ The evaluation recommended developing a statewide strategic plan that aligns with the federal Child and Family Services Review requirements.³⁴

Rylan's Law / Family/Child Protection and Accountability Act

Rylan's Law / Family/Child Protection and Accountability Act, named after Rylan Ott, whose death sparked investigations into the child welfare system, was enacted in 2017. According to panelist Ryan O'Donnell, an advocate, former foster parent, and creator of Your Case Plan case management tool, Rylan's Law was grounded in three main goals: to ensure social workers conduct Rylan's visit, invest in reforms (including a new child welfare information system), and create regional offices for better county oversight.³⁵ To achieve these goals, Rylan's Law includes the following:³⁶

1. Trial Home Visits and Reunification

- a. Requires the child welfare agency to conduct formal trial home visits before the reunification of children with their parents.
- b. Observations of the home environment and the parent-child relationship must be conducted to ensure safety and readiness for reunification.
- c. Requires that prior to recommending parental reunification, two home visits must occur at least seven days apart and consist of observation of at least one hour, with the child being present for the duration of the visit; documentation of "successful visits" must be provided to the court.

³² North Carolina Department of Health and Human Services Division of Social Services, PCG. "North Carolina Statewide Child Protective Services Evaluation." March 1, 2016. <https://www.ncdhhs.gov/documents/files/dss/statistics/nc-statewide-cps-evaluation-02-26-16/download> (accessed December 19, 2023).

³³ Ibid.

³⁴ Ibid.

³⁵ O'Donnell Testimony, 7/24/24 *Web Briefing*, p. 13.

³⁶ Ch. S.L. 2017-41 (H.B. 630); <https://www.ncleg.net/sessions/2017/bills/house/pdf/h630v6.pdf>.

2. Timely Permanency Decisions

- a. Establishes stricter timelines for achieving permanency for children in foster care (e.g., reunification, adoption, guardianship).
- b. Courts are required to expedite cases where reunification is unlikely and pursue other permanency options.
- c. If reunification efforts fail within six months, the court must consider other permanency options, such as adoption or guardianship, and can begin the process of termination of parental rights (TPR).
- d. Reduces the time frame from 180 days to 65 days for parents to file a motion to appeal a termination of parental rights order.

3. Oversight and Accountability

- a. Mandates independent reviews of child welfare programs in each county to ensure compliance with state laws and standards.
- b. The reviews assess whether counties are meeting performance benchmarks and ensure resources are being used effectively.
- c. Empowers a county's Department of Social Services DSS to assume oversight or control over county child welfare services when counties fail to meet performance standards.

4. Performance Transparency and Data Access

- a. Requires the creation of a performance dashboard to track the outcomes of child welfare services, including statistics on children in care, reunification, adoption, and permanency. Data for the dashboard will be collected through the NC FAST³⁷ system.
- b. The dashboard is made publicly accessible to enhance transparency.
- c. Requires regular reporting to the General Assembly regarding the performance of child welfare programs across the state.

5. Role of Foster Parents and Caregivers

³⁷ A program designed to improve the way the NC Department of Health and Human Services and county departments of social services conduct business.

- a. Strengthens the role of foster parents by allowing them to participate more actively in court reviews and hearings concerning the child's well-being and permanency planning.
 - b. Requires the establishment of a pilot program to waive the employment requirements for certain foster parents.
 - c. Amends the requirements to require NCDHHS to grant or deny a license to provide foster care within three months of the date of the application.
6. Child-Centered Decision Making
 - a. Ensures that the best interests of the child are the primary consideration when making decisions about family reunification, TPR, or permanency planning.
 - b. Requires that the safety, health, and stability of the child be prioritized in all decisions.
7. Foster Care and Adoption Promotion
 - a. Expands efforts to promote adoption for children who cannot safely reunite with their biological parents, including children who have been in foster care for an extended period.
8. Support for the Child Welfare Workforce
 - a. Requires increased training for social workers and case managers on conducting risk assessments, managing complex cases, and engaging with families.
 - b. This includes training on child-centered practices, including family engagement and decision-making that prioritizes the child's safety and well-being.
9. Social Services Working Group (SSWG). Establishes the Social Services Working Group (SSWG) to explore and recommend structural reforms in the child welfare system and develop best practices for child welfare services.

Developments Since the Passage of Rylan's Law

2019 Child Welfare Reform Plan

In accordance with the law's goal of developing a reform plan for the state's child welfare system, the North Carolina State Office of Budget and Management (OSBM) and the Department of Health

and Human Services (DHHS) released a Child Welfare Reform Plan on May 6, 2019.³⁸ The state contracted with The Center for the Support of Families to develop the plan and gather input from stakeholders including government and non-profit representatives, as well as impacted youth and families. As part of the Plan, an assessment of the child welfare system was completed to identify areas in need of improvement. The assessment found that children and families were not receiving consistent services in the areas of child protective services, prevention and in-home services, reunification services, permanency services, health, mental health, and educational services, and services for older youth.³⁹

The Plan recommended that both short- and long-term multifaceted approaches were needed to transform the child welfare system in North Carolina into one that is culturally-competent, trauma-informed, family-centered, and safety-focused.⁴⁰ The recommendations centered on areas that included: strong support and leadership; partnerships with court systems, health services, and families; well-defined statewide practice standards; improved efficiency and monitoring of financing (including improved management of Title IV-E funds); improvements in caseloads and workforce development; and addressing the child fatality review process, among others.⁴¹

2020-2024 North Carolina Child and Family Services Plan

Several of the recommendations from the 2019 Child Welfare Reform Plan, along with the 2015 Child and Family Services Review Final Report, helped to inform the state's Child and Family Services Plan for fiscal years 2020-2024, which is a strategic plan required of all states by the U.S. Department of Health and Human Services.⁴² Several of the challenges identified include: the need to address service delivery and financing with a unified vision and collaboration, uneven support of the child welfare workforce, disparate access to culturally-sensitive and trauma-informed services for families, under-developed community partnerships, and inconsistent access to reliable data.⁴³ As part of the Plan's recommendations, along with the state's goals to secure safety and well-being for children and families, the state also prioritized providing appropriate support and

³⁸ Ch. S.L. 2017-41 (H.B. 630), § 2.1(a), § 2.1(b); *See also*: Center for the Support of Families. "Child Welfare Reform Plan." North Carolina State Office of Budget and Management, North Carolina Department of Health and Human Services. May 6, 2019. https://files.nc.gov/ncosbm/documents/files/ChildWelfareReform_FinalPlan.pdf (accessed December 19, 2023).

³⁹ Center for the Support of Families. "Child Welfare Reform Plan." North Carolina State Office of Budget and Management, North Carolina Department of Health and Human Services. May 6, 2019. https://files.nc.gov/ncosbm/documents/files/ChildWelfareReform_FinalPlan.pdf (accessed December 19, 2023).

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² NC Department of Health and Human Services. "North Carolina Child and Family Services Plan 2020-2024." Division of Social Services Child Welfare Services. Rev. September 2019. <https://files.nc.gov/ncdhhs/documents/files/dss/statistics/2020-2024-Child-and-Family-Services-Plan-FINAL-2-2020.pdf> (accessed November 21, 2023).

⁴³ *Ibid.*

information needed for county child welfare agencies to implement their policies and procedures.⁴⁴ Building and supporting a stable child welfare workforce was also a priority recommendation under this Plan.⁴⁵

Relevant Federal Laws and Regulations

The following are federal laws and statutes that are relevant to this project:

- Social Security Act, Title IV, Part B – Child and Family Services⁴⁶

This section promotes State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families.

- Social Security Act, Title IV, Part B – State Plans for Child Welfare Services⁴⁷

Requires that states have a plan for child welfare services in order to receive federal funds under this section and establishes requirements for the plan.

- Code of Federal Regulations § 1357.15 Comprehensive child and family services plan requirements.⁴⁸

This regulation establishes the requirements for state Child and Family Service Plans, which provide an opportunity to lay the groundwork for a system of coordinated, integrated, culturally relevant family focused services.⁴⁹

Ongoing Issues in North Carolina's Child Welfare System

The Committee decided to examine this project because of reported issues with the North Carolina child welfare system after the passage of Rylan's Law. Below are three instances in which NCDHHS has temporarily taken over local child welfare services due to various incidents.

- 2018, Cherokee County – NCDHHS temporarily took control over the Cherokee County Department of Social Services, after it was found that staff there were illegally forcing parents to sign agreements without a judge's approval that led to the removal of children

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ 42 U.S.C. 621 § 421.

⁴⁷ 42 U.S.C. 622 §422.

⁴⁸ 45 CFR 1357.15.

⁴⁹ *Id.*

from their homes.⁵⁰ According to a statement from NCDHHS, the department “initiated an investigation of child welfare services in Cherokee County after learning that the Cherokee Department of Social Services had been using “Custody and Visitation Agreements” in removing children from parents and placing them in other homes without the required oversight of the court system.”⁵¹ NCDHHS also found a “systematic lack of adequate training, supervision and capacity to deliver appropriate child welfare services.”⁵² NCDHHS’ intention was to work closely with staff and develop a plan to bring the local department into compliance.⁵³

- 2022, Bertie County – NCDHHS found that the Bertie County Department of Social Services failed to provide child welfare services in accordance with law, rule, and policy, therefore posing a threat to child safety and well-being.⁵⁴ NCDHHS found that the director had signed several custody orders that only a judge or their designee is authorized to do, which result in the illegal removal of children as well as a negative impact on federal funds for the department.⁵⁵ The state also found issues with several aspects of the local department’s management and service delivery, such as a lack of training for staff and minimal to non-existent case documentation.⁵⁶ Despite these deficiencies, the state released Bertie County from its oversight in 2023 and issued a series of strategies as well as technical assistance to help the county maintain their operations after determining they were in compliance with the law.⁵⁷
- 2023, Nash County – When two children in separate cases who were under Nash County Department of Social Services’ supervision were killed by family members, even after the department had received recommendations to remove them from their homes but failed to

⁵⁰ Weiss, Mitch, Mohr, Holbrook. “North Carolina to take over child welfare office that illegally removed kids from homes.” ABC Channel 9 News. March 16, 2018. <https://newschannel9.com/amp/news/local/north-carolina-to-take-over-child-welfare-office-that-illegally-removed-kids-from-homes> (accessed December 19, 2023).

⁵¹ North Carolina Department of Health and Human Services. “Statement on Cherokee County Department of Social Services.” State of North Carolina. March 16, 2018. <https://www.ncdhhs.gov/news/press-releases/2018/03/16/statement-cherokee-county-department-social-services> (accessed January 3, 2024).

⁵² Ibid.

⁵³ Ibid.

⁵⁴ North Carolina Department of Health and Human Services. “Initial Assessment of Bertie County DSS Child Welfare Services by DHHS.” June 10, 2022. https://www.documentcloud.org/documents/22084500-bcdss-child-welfare-initial-assessment-final_redacted#document/p4/a2124371 (accessed January 16, 2024).

⁵⁵ Ibid; *See also*: Martin, Kate. “DHHS findings suggest Bertie DSS director acted unlawfully.” Carolina Public Press. July 13, 2022. <https://carolinapublicpress.org/55240/dhhs-findings-suggest-bertie-dss-director-acted-unlawfully/> (accessed November 14, 2023).

⁵⁶ Ibid.

⁵⁷ Foley, John. “State releases DSS oversight.” Bertie Ledger-Advance. May 17, 2023. https://www.dailyadvance.com/bertie/news/local/state-releases-dss-oversite/article_9ccfee3c-1b29-5b77-96af-13b5c9f372b4.html (accessed January 16, 2024).

do so, NCDHHS took control of the department.⁵⁸ The state had already been working with Nash County to improve its safety and decision-making protocols due to other serious cases, including a near fatality, but the county had been slow to respond, even with direct guidance and resources.⁵⁹

Statewide Operational Issues in Child Welfare Services

- *Lack of Data* - According to the NCDHHS 2020-2024 Child and Family Services Plan, NC FAST is North Carolina’s statewide case management system.⁶⁰ While the system was implemented with a phased-in approach according to case type, not all child welfare agencies at the county level had transitioned to it, which required the NCDHHS Division of Social Services to extract and compile data from NC FAST as well as an outdated computer system in order to compile needed information from all counties.⁶¹ As of 2020, 3 out of 5 counties still used paper records to track child welfare cases, and several had their own in-house electronic systems, all of which result in inconsistency and an inability for local agencies to share information with each other or the state.⁶²
- *Challenges with Funding and Developing a Consistent Application of Policies* - Rylan’s Law intended to address inconsistencies in the application of policies at the county level by creating regional offices.⁶³ However, there were concerns on the capacity of the General Assembly to provide the appropriate funding for the new positions and offices, and whether it is within the scope of the regional offices to take corrective action if local officials were

⁵⁸ “State taking over Nash County DSS after child deaths.” September 11, 2023. WITN. <https://www.witn.com/2023/09/11/state-taking-over-nash-county-dss-after-child-deaths/> (accessed January 16, 2024).

⁵⁹ WRAL Investigates. “State takes over Nash County DSS after WRAL Investigation into deaths of two children under agency’s care.” WRAL News. September 11, 2023. <https://www.wral.com/story/state-takes-over-nash-county-dss-after-wral-investigation-into-deaths-of-two-children-under-agency-s-care/21043467/> (accessed January 16, 2024).

⁶⁰ NC Department of Health and Human Services. “North Carolina Child and Family Services Plan 2020-2024.” Division of Social Services Child Welfare Services. Rev. September 2019. <https://files.nc.gov/ncdhhs/documents/files/dss/statistics/2020-2024-Child-and-Family-Services-Plan-FINAL-2-2020.pdf> (accessed November 21, 2023).

⁶¹ Martin, Kate and Taylor, Frank. “Structure of NC child protective services leads to inequity.” Carolina Public Press. June 9, 2021. <https://carolinapublicpress.org/46350/structure-of-nc-child-protective-services-leads-to-inequity/> (accessed December 12, 2023); *See also*: NC Department of Health and Human Services. “North Carolina Child and Family Services Plan 2020-2024.” Division of Social Services Child Welfare Services. Rev. September 2019. <https://files.nc.gov/ncdhhs/documents/files/dss/statistics/2020-2024-Child-and-Family-Services-Plan-FINAL-2-2020.pdf> (accessed November 21, 2023).

⁶² Ibid.

⁶³ Ch. S.L. 2017-41 (H.B. 630), § 4.1, *See also*: Martin, Kate and Taylor, Frank. “Structure of NC child protective services leads to inequity.” Carolina Public Press. June 9, 2021. <https://carolinapublicpress.org/46350/structure-of-nc-child-protective-services-leads-to-inequity/> (accessed December 12, 2023).

not in compliance with the law.⁶⁴ Funding for child welfare agencies at the local level are not a new concern. Director Cauley testified that, historically, North Carolina has underinvested in child welfare.⁶⁵ State Senator Lisa Grafstein, representing the 13th district, emphasized that state agencies, including those involved in the NCDHHS work, constantly face budget shortfalls.⁶⁶ A 2016 NC Health News article reported that the state provided the fewest dollars to the child welfare system in 2015 and that there were disparities in the funds received by higher-income counties as compared to lower-income counties, both in terms of funds to pay staff as well as services.⁶⁷

- *Personnel Issues* - Across counties, there are significant disparities in pay for the same positions in child welfare agencies, which tend to lead to turnover and inexperienced personnel working in these offices.⁶⁸ Counties in close proximity to larger cities tend to see staff leave for higher salaries in neighboring counties, creating a gap in institutional knowledge.⁶⁹ The high level of turnover also places existing staff in environments of high stress and burnout, while still being required to meet the same standards as if they were fully staffed, and directors in some counties must hire applicants who are not qualified for the job due to the lack of applications received.⁷⁰ Counties that are geographically isolated also struggle with recruitment and with ensuring that staff obtain required training, especially if they must travel several hours to other counties for trainings that are only offered a few times a year.⁷¹ These challenges can lead to continuous understaffing, diminished productivity, and inconsistencies.⁷² In Cherokee County, for instance, such

⁶⁴ Ibid.

⁶⁵ Cauley Testimony, 8/7/24 *Web Briefing*, p. 13; supplemental slides, p. 6.

⁶⁶ Grafstein Testimony, 8/7/24 *Web Briefing*, pp. 8-9.

⁶⁷ Hoban, Rose. "NC Child Welfare System Failing Children, Families, Reports Say." NC Health News. June 16, 2016. <https://www.northcarolinahealthnews.org/2016/06/16/nc-child-welfare-system-failing-children-families-reports-say/> (accessed December 12, 2023).

⁶⁸ Martin, Kate and Taylor, Frank. "Structure of NC child protective services leads to inequity." Carolina Public Press. June 9, 2021. <https://carolinapublicpress.org/46350/structure-of-nc-child-protective-services-leads-to-inequity/> (accessed December 12, 2023).

⁶⁹ Martin, Kate. "NC counties struggle to find qualified DSS workers." Carolina Public Press. March 29, 2022. <https://carolinapublicpress.org/52509/nc-counties-struggle-to-find-qualified-dss-workers/> (accessed December 12, 2023).

⁷⁰ Ibid.

⁷¹ Ibid; *See also*: Martin, Kate and Taylor, Frank. "Structure of NC child protective services leads to inequity." Carolina Public Press. June 9, 2021. <https://carolinapublicpress.org/46350/structure-of-nc-child-protective-services-leads-to-inequity/> (accessed December 12, 2023).

⁷² Martin, Kate and Taylor, Frank. "Structure of NC child protective services leads to inequity." Carolina Public Press. June 9, 2021. <https://carolinapublicpress.org/46350/structure-of-nc-child-protective-services-leads-to-inequity/> (accessed December 12, 2023).

circumstances led to the county and the state having to repay nearly \$250,000 in federal foster care funds due to staff having used incorrect billing codes.⁷³

- *Structural Poverty and Lack of Investment in Local Communities* - Of the more than 43,000 cases of child “maltreatment” the state recorded in 2020 and 2021, only about 10 percent involved victims of physical or sexual abuse. The vast majority suffered from “neglect”. Only 30 percent of the 5,020 children who left North Carolina’s foster care system in the 2022-23 fiscal year were reunited with their parents. The statutory language in many states conflates poverty with neglect leading to disastrous results for families. For example, a 2020 50-state survey of neglect statutes found that most statutes are open ended leaving broad discretion for the caseworkers to decide what is ‘proper’ and ‘necessary’ care. Other statutes are even more obvious, as they define child neglect as the failure to provide adequate food, clothing, shelter etc.⁷⁴
- *Use of Hidden Foster Care and Other Historical Bias Against Reunification* - Despite recent federal prioritizing reunification and prevention, many social services agencies are steeped in a culture that prioritizes adoption and finding permanent placements quickly, said Matt Anderson, a former executive at the Children’s Home Society, the largest nonprofit foster care agency in North Carolina.⁷⁵ Hidden foster care is an unregulated practice inconsistent with federal policy whereby a child protection agency — following an investigation and a child removal decision — facilitates the child’s move from the family to the care of kin (a relative or trusted community member) in lieu of seeking legal custody or providing economic or other supports. Unlike a case in which the agency does assume legal custody, there are no supports offered to the child or temporary caregiver, and no plans are made to safely reunify the child with their parents.⁷⁶

Purpose and Scope

The North Carolina Advisory Committee produced this report examining whether the implementation of Rylan’s Law has a disparate impact on individuals that are members of a protected class.

The scope of this project is limited to an examination of the implementation of Rylan’s Law with a specific focus on:

⁷³ Ibid.

⁷⁴ Billman, Jeffrey, Clegg, Whitney, and Nick Ochsner. “Best Interest of the Child.” The Assembly. December 5, 2023. <https://www.theassemblync.com/politics/courts/child-welfare-investigation/> (accessed February 22, 2024).

⁷⁵ Ibid.

⁷⁶ Casey Family Programs. “How is the practice of hidden foster care inconsistent with federal policy and harmful to children and families?” October 19, 2023. <https://www.casey.org/hidden-foster-care/> (accessed February 22, 2024).

- a) the outcomes of state intervention thus far;
- b) an analysis of disparities, if any, in the child welfare system based on race, color, age, disability, or other federally protected category that state intervention has addressed and/or can address;
- c) the impacts of Rylan's Law on child/parent reunification rates; and
- d) areas for improvement in the implementation of Rylan's Law.

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts who have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to use their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals who are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of background, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request for clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions

drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take a specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders. As with the findings, recommendations are confirmed by majority vote of members, rather than by any one member.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,⁷⁷ the North Carolina Advisory Committee submits the following findings to the Commission regarding an examination of Rylan’s Law. This report seeks to highlight the most salient civil rights themes as they emerged from the Committee’s inquiry. Project materials received are included in a link in Appendix A for further reference.

Below the findings are grouped together in alignment with the scope of the project:

- a. Outcomes of state intervention thus far can be found in Findings I, II, III and IV.
- b. Analysis of disparities, if any, in the child welfare system based on race, color, age, disability, or other federally protected category that state intervention has addressed and/or can address are found in Findings V and VI.
- c. The impacts of Rylan’s Law on child/parent reunification rates are addressed in Findings VII, VIII, and IX.

Finding I: Rylan’s Law was enacted in 2017, but it has still not been fully implemented.

Donnie Loftis is a member of the North Carolina House of Representatives and was one of the sponsors of Rylan’s Law. He testified that implementation is “already three, four years behind”⁷⁸ and said:

[T]hree months or so ago, I emailed ... questions to Cody Kinsley, Lisa Cauley, Susan Osborne, all those folks who were in that upper echelon of management and said, "Where are we with these suggestions? ... What percentage have we done?" And the feedback was, "Well, we are now appointing the east and west directors." So, it comes back to what we hear as legislators, we don't

⁷⁷ 45 C.F.R. § 703.2 (2018).

⁷⁸ Loftis Testimony, 9/27/24 *Web Briefing*, p. 10.

have enough money. And it's very frustrating to think of the millions ... of dollars that are allocated. We haven't moved any further than that. And the whole time, every day in the life of that child is critically important. So, I'm going to continue to say, okay, what time tomorrow will we complete one of those? ⁷⁹

Lisa Cauley, Senior Director of Child, Family and Adult Services at North Carolina's Department of Health and Human Services (NCDHHS), confirmed and explained the delay in her testimony.⁸⁰ Specific problems caused or exacerbated by the incomplete implementation of Rylan's Law are discussed below in findings II, III, and IV.

Rylan's Law is part of a broader effort to reform the child welfare system in North Carolina. The Law was introduced to strengthen the state's child welfare system, protect vulnerable children in foster care, and prevent tragedies like the death of Rylan Ott from happening again.

However, the Committee heard that even if measures that intend to redesign the current system, like Rylan's Law, are implemented, they often perpetuate the same harmful dynamics they are trying to address.⁸¹ Panelist Amanda Wallace, founder of Operation Stop CPS, advocated for dismantling the current welfare system. She criticized the system and argued that even when reformed, the child welfare system will prioritize "self-preservation over genuine support for families," citing North Carolina's failure to meet federal child welfare standards since 2001.⁸²

Finding II: Because Rylan's Law has not been fully implemented, North Carolina's child welfare system remains decentralized which raises serious concerns about the lack of accountability among staff at the North Carolina Department of Health and Human Services (NCDHHS) and the state's 100 county Department of Social Services (DSS) offices. This insufficient oversight delays the resolution of critical issues within the child welfare system, and, in some cases, causes harm to children.

Rylan's Law was intended to bring consistency and stronger oversight to North Carolina's child welfare system. However, testimonies from families navigating the system demonstrate the extent to which these goals have not been met. Families have reported procedural errors and mismanagement of cases,⁸³ and failures to accommodate medical conditions when assessing parental fitness,⁸⁴ or compliance with case plans.⁸⁵ These problems compounded by the lack of

⁷⁹ Ibid., p. 17.

⁸⁰ Cauley Testimony 8/7/24 *Web Briefing*, pp. 13-4, Cauley Testimony, 8/7/24 Supplemental Slides, p. 6.

⁸¹ Wallace Testimony, 7/24/24 *Web Briefing*, p. 20.

⁸² Ibid., pp. 20-1.

⁸³ Potts Testimony, 7/24/24 *Web Briefing*, pp. 8-11; Erwin Testimony, 8/23/24 *Web Briefing*, pp. 8-10; Rushing Testimony, 8/23/24 *Web Briefing*, p. 19; Hawes Testimony, 8/23/24 *Web Briefing*, p. 13; Lunduski Testimony, 6/27/24 *Community Forum*, p. 7; Holt Testimony, 6/27/24 *Community Forum*, p. 32.

⁸⁴ Glover Testimony, 6/27/24 *Community Forum*, pp. 11-2.

⁸⁵ O'Donnell Testimony, 7/24/24 *Web Briefing*, pp. 11-5; Jones Testimony, 6/27/24 *Community Forum*, p. 25.

accountability, have led to harm for children,⁸⁶ including those with neurodiverse backgrounds,⁸⁷ and have prevented some families from achieving reunification.⁸⁸

The lack of oversight has also contributed to inequities in how social workers exercise discretion. Ginger Rhoads, who regularly hears from parents through her organization RAISE, testified to parents facing barriers to reunification despite demonstrating progress, while others received leniency, illustrating the uneven treatment families experience.⁸⁹

The tragic consequences of mishandling of cases have been detailed in media reports and public reviews of the 100 county DSS offices across North Carolina by Ryan O'Donnell an advocate, former foster parent, and creator of Your Case Plan, an online tool that improves case communication and engagement between varying stakeholders within the child welfare system. He shared notable examples, including a seven-year-old girl who was sexually assaulted inside the Johnston County DSS office⁹⁰ and a mother in Davie County whose child was moved nine times in a single school year.⁹¹

Additionally, individuals involved in the system expressed confusion as to the appropriate channels for reporting and addressing such abuses within the system.⁹² A family that attempted to report issues with a county DSS office was sent on a “merry-go-round to navigate the court system”⁹³ only to receive either no follow up on complaints submitted to different entities (county commissioner’s office, courts, and Constituent Concerns Office in North Carolina) or a response noting they cannot provide information due to confidentiality laws.⁹⁴ Other families who have reported to the office note that their complaints have gone nowhere, and that they have been unable to find out who is their regional office director or how to obtain a substantive response to their complaint.⁹⁵

⁸⁶ Palacios Testimony, 6/27/24 *Community Forum*, pp. 3-4.

⁸⁷ Hawes Testimony, 8/23/24 *Web Briefing*, pp. 12-13, Palacios Testimony, 6/27/24 *Community Forum*, pp. 3-4; Dunn Testimony, 7/24/24 *Web Briefing*, p. 23.

⁸⁸ Palacios Testimony, 6/27/24 *Community Forum*, pp. 3-4.

⁸⁹ Rhoads Testimony, 9/27/24 *Web Briefing*, pp. 19-20.

⁹⁰ Mark Bergin and Eric Miller, “7-year-old Girl Reports She Was Sexually Assaulted Inside Johnston County Department of Social Services Building,” WRAL.Com, October 5, 2023, <https://www.wral.com/story/7-year-old-girl-reports-she-was-sexually-assaulted-inside-johnston-county-department-of-social-services-building/21083461/>.

⁹¹ O'Donnell Testimony, 7/24/24 *Briefing*, p. 15.

⁹² Haney Testimony, 7/12/24 *Briefing*, p. 39; Rushing Testimony, 7/12/24 *Briefing*, p. 43; McDaniel Testimony, 8/23/24 *Web Briefing*, p. 39.

⁹³ Rushing Testimony, 7/12/24 *Briefing*, p. 43

⁹⁴ *Ibid.*, p. 43.

⁹⁵ Wallace Testimony, 7/24/24 *Briefing*, p. 27.

Panelist Ryan O'Donnell testified that the current system lacks accountability and transparency which can affect foster parents. For example, his testimony indicated that there may be retribution for families and foster parents who report or attempt to report complaints.⁹⁶ He also expressed concern that county courts seal courtrooms to the public, deny the press access to hearings, and threaten jail time if parents or foster parents speak out.⁹⁷ While there may be justifiable reason for moving children out of foster homes, some families and foster parents feel they have been retaliated against.⁹⁸

While these accounts reflect frustration with the lack of accountability, testimony also offered potential solutions to address some areas of concern. North Carolina House Representative Donnie Loftis for District 109 suggested that implementing body cameras for CPS workers could help ensure accountability, fostering a more transparent approach to family interactions and potentially reducing punitive practices.⁹⁹ Richard Wexler, Executive Director of the National Coalition for Child Protection Reform recommended that North Carolina enact similar language to other states' laws—such as those in Arizona¹⁰⁰ and New York¹⁰¹—which allow CPS agencies to comment on cases when families and their lawyers say they have been mishandled.¹⁰² Other groups suggested enacting legislation to require the state to inform parents of their rights upon first contact, similar to Miranda rights.¹⁰³

From the perspective of law makers addressing issues within the child welfare system, Senator Grafstein noted that legislators often receive high-level or aggregate information concerning the issues within the child welfare system limiting their ability to understand specific issues in detail.¹⁰⁴

In defense of the current implementation of Rylan's Law, Lisa Cauley, Senior Director for Child, Family, and Adult Services for the NCDHHS, explained that regional support model relies on state supervision and county administration.¹⁰⁵ She encouraged individuals experiencing issues to contact NCDHHS's Constituent Concerns Office so that the state can work with the county in

⁹⁶ O'Donnell Testimony, 7/24/24 *Briefing*, p. 13.

⁹⁷ Ibid; Lee Testimony, 6/27/24 *Community Forum*, p. 6; Smith Testimony, 6/27/24 *Community Forum*, p. 15; Movement For Family Power & Civil Rights Corps. Written Statement at 10; Wallace Written Statement 3 at 3.

⁹⁸ Osborne Testimony, 7/24/24 *Briefing*, p. 6; O'Donnell Testimony, 7/24/24 *Briefing*, p. 13.

⁹⁹ Loftis Testimony, 9/27/24 *Web Briefing*, p. 21.

¹⁰⁰ Ariz. Rev. Stat. § 8-807 (2005), <https://law.justia.com/codes/arizona/2005/title8/00807.html>.

¹⁰¹ N.Y. Soc. Serv. Law § 422-a (2014), <https://www.nysenate.gov/legislation/laws/SOS/422-A>.

¹⁰² Wexler Written Statement 2 at p. 34.

¹⁰³ Movement For Family Power and Civil Rights Corps. Written Statement at 18.

¹⁰⁴ Grafstein Testimony, 8/7/24 *Web Briefing*, pp. 8-11.

¹⁰⁵ The status of implementation of Rylan's Law is explained in Finding III.

question to gather information and resolve problems. However, the effectiveness of this partnership remains heavily dependent on consistent oversight and accountability.¹⁰⁶

Finding III: Because Rylan’s Law has not been fully implemented, geographic disparities and unequal protection continue across the state.

Rylan’s Law is an act, in part, to establish regional supervision and collaboration for social services in North Carolina.¹⁰⁷ The Law mandated that the North Carolina Department of Health and Human Services (NCDHHS) develop a plan for establishing regional offices to supervise the administration of social services at the local level.¹⁰⁸ The development of this plan was guided by a committee of stakeholders and experts working collectively within the Social Services Regional Supervision and Collaboration Working Group (SSWG), a committee appointed under Rylan’s Law.¹⁰⁹ According to the Law, the NCDHHS plan was to be submitted by November 15, 2018, with the system of regional supervision operational by March 1, 2020.

Current Status of Implementation of Rylan’s Law

Lisa Tucker Cauley, Senior Director for Child, Family, and Adult Services for the NCDHHS, reported that the NCDHHS accepted the recommendations from the SSWG and began developing the Regional Support Model in 2019.¹¹⁰ The NCDHHS consolidated North Carolina’s 100 county Departments of Social Services (DSS) into seven regions. Under the Regional Support Model, counties continue to administer the child welfare system locally, but the state provides supervision via regional directors.¹¹¹ Currently, six of the seven regional director positions have been filled, along with the lead regional director, William Rose.¹¹²

¹⁰⁶ Cauley Testimony, 8/7/24 *Web Briefing*, p. 33.

¹⁰⁷ Ch. S.L. 2017-41 (H.B. 630); <https://www.ncleg.net/sessions/2017/bills/house/pdf/h630v6.pdf>.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Cauley Testimony, 8/7/24 *Web Briefing*, supplemental slides; North Carolina Child Support Services Regional Support Map <https://www.ncdhhs.gov/css-21-29a1/download?attachment>.

¹¹¹ Cauley Testimony, 8/7/24 *Web Briefing*, p. 13.

¹¹² North Carolina Department of Health and Human Services, Internal Letter, *Regional Support Update*, Peter West, Section Chief for County Operations, Feb. 22, 2024 <https://www.ncdhhs.gov/cws152024/download?attachment>.

The NCDDHS goal is for each region to have a team of 17 additional staff.¹¹³ Thirteen of the 17 staff positions are currently funded.¹¹⁴

Currently funded: Administration Regional Director (1), Adult Services Directors (2), Child Support Director (2), Child Welfare Directors (5), Economic Services (2), and Fiscal Director (1).

Currently not funded: Administrative staff (2), Adult Services staff (1), Economic Services Staff (1), Fiscal Staff (1).

Lack of North Carolina Funding for Social Services

Director Cauley testified that North Carolina underinvests in child welfare.¹¹⁵ Children receive roughly half as much money as children in peer states, and the state ranks last among similar states in federal, state, and local public funding.¹¹⁶ Senator Grafstein emphasized that state agencies, including those involved in the NCDHHS work, constantly face budget shortfalls.¹¹⁷ She said that the state has the capacity for adequate revenue and a substantial existent monetary reserve to fund state systems but has chronically underfunded social services.¹¹⁸

Lack of Funding to Implement the Regional Support Model

Due to inadequate state funds, the NCDHHS has had to incrementally implement the Regional Support Model mandated by Rylan's Law.¹¹⁹ As a result, Representative Loftis emphasized that regionalization has been slow and that the state is already three to four years behind.¹²⁰ Several years after the passing of Rylan's Law, key leadership has only recently been put in place.¹²¹

The North Carolina General Assembly funded 13 of the 17 regional staff positions in 2022 outlined in the Regional Support Model. Of the new positions, three were for state oversight of the counties—a CQI specialist, a permanency specialist for foster care, and a CPS safety officer. Director Cauley testified that the state had to leverage other funding sources for two additional positions: a regional abuse medical specialist was added through a contract with the University of North Carolina, and

¹¹³ Cauley Testimony, 8/7/24 *Web Briefing*, supplemental slides.

¹¹⁴ Cauley Testimony, supplemental slides; North Carolina Department of Health and Human Services, *Regional Child Welfare Specialists*, <https://www.ncdhhs.gov/divisions/social-services/county-staff-information/local-support-staff-schedules/regional-child-welfare-specialist>.

¹¹⁵ Cauley Testimony, 8/7/24 *Web Briefing*, p. 13.

¹¹⁶ *Ibid.*, p. 13, supplemental slides.

¹¹⁷ Grafstein Testimony, 8/7/24 *Web Briefing*, pp. 8-9.

¹¹⁸ *Ibid.*, pp. 8-9.

¹¹⁹ Cauley Testimony, 8/7/24 *Web Briefing*, supplemental slides.

¹²⁰ Loftis Testimony, 9/7/24 *Web Briefing*, p. 10.

¹²¹ *Ibid.*, p. 10.

a system of care coordinator for each region was funded through the Family First Prevention Services Act.¹²²

The Committee heard that appointing regional directors was one of the most important factors in the Regional Support Model. Still, funding for the seven new positions was only received from the State General Assembly in 2023. In addition, part of the vision for the Regional Support Model included regional facilities for the counties to convene and discuss their needs with the regional directors and staff. However, the money for the building infrastructure has yet to be allocated, so the regional teams are primarily based at home.¹²³

Implications of Lack of Regional Support Model/Regional Oversight

County DSS offices are funded locally and continue to face funding gaps exacerbated by state budget cuts. Ongoing reductions in state revenue affect the ability of the NCDHHS office to fully staff, train, and function effectively.¹²⁴

Without the appointment of regional directors, legislators and other state officials receive information at a very high aggregate level.¹²⁵ The state receives information directly from local agencies, which decide how much to share and what to emphasize.¹²⁶ Rylan's Law, when fully implemented, aims to address this disconnect through comprehensive oversight. Regional offices will negotiate issues at the county level, align local offices with state-level values, and contend with biases.¹²⁷ Senator Grafstein suggested that regional oversight does pose the risk of adding a layer of bureaucracy. She suggested that this model is an opportunity to understand how the civil rights of people are affected by the child welfare system.¹²⁸

Lack of Funding for Staffing

¹²² Cauley Testimony, 8/7/24 Web Briefing, p. 13.

¹²³ Ibid., p. 14; Department of Health and Human Services, *Report to the Joint Legislature Oversight Committee on Health and Human Services*, February 22, 2019, <https://www.ncdhhs.gov/divisions/social-services/about-dss/our-organization>

¹²⁴ Grafstein Testimony, 9/27/24 Web Briefing, pp. 8-9.

¹²⁵ Ibid., p. 9.

¹²⁶ Ibid.

¹²⁷ Ibid., p. 10.

¹²⁸ Ibid.

Senator Grafstein testified that North Carolina government workers are not adequately compensated, so many positions remain unfilled.¹²⁹ Inadequate funding has led to 25-40 percent staffing shortages in many areas of the state's government.¹³⁰

The lack of funding for counties creates a similar dynamic in county DSS offices. These positions are funded through county and federal resources, which has resulted in different funding levels among counties and wide salary variance across the state.¹³¹ One of the primary reasons social service workers leave a position is to move to a county with higher wages.¹³² Eulonda Rushing provided her experience of directors and social services workers move from county to county for higher salaries or even to avoid reprimand for wrongdoing.¹³³

High turnover and vacancies have significant consequences. According to a media interview with NCDHHS Human Services Director Susan Osborne stated that half the counties in North Carolina lack sufficient social service workers to meet the needs of children in the welfare system. Smaller counties see more than half their child protection staff turnover each year.¹³⁴

The more county DSS workers are involved in a case, the more placements a child may experience. Case manager turnover can also cause delays in the investigation of abuse allegations, lack of continuity of care, and an increased likelihood that a child will be placed in foster care prematurely.¹³⁵

Director Cauley explained that NCDHHS data reveals children from underfunded rural counties are disproportionately involved in the foster care system.¹³⁶ Some counties lack the resources or staff to keep families together by placing an unhoused family in a shelter or providing staff intervention to keep the child safely at home.¹³⁷

¹²⁹ Grafstein Testimony, 9/27/24 *Web Briefing*, p. 9.

¹³⁰ Cauley Testimony, 8/7/24 *Web Briefing*, p. 16.

¹³¹ *Ibid.*, pp. 16, 26.

¹³² *Ibid.*, p. 26.

¹³³ Rushing Testimony, 8/7/24 *Web Briefing*, p. 32.

¹³⁴ Cauley Testimony, 8/7/24 *Web Briefing*, supplemental slides; Leslie, Laura. "NC Social Service Leaders Say More State Funding Needed for Child Welfare Workers, Foster Homes." WRAL.Com, Feb. 6, 2024. <https://www.wral.com/story/nc-social-service-leaders-say-more-state-funding-needed-for-child-welfare-workers-foster-homes/21270659/>.

¹³⁵ Leslie, Laura. "NC Social Service Leaders Say More State Funding Needed for Child Welfare Workers, Foster Homes." WRAL.Com, Feb. 6, 2024. <https://www.wral.com/story/nc-social-service-leaders-say-more-state-funding-needed-for-child-welfare-workers-foster-homes/21270659/>.

¹³⁶ *Ibid.*

¹³⁷ Cauley Testimony, 8/7/24 *Web Briefing*, pp. 25-6.

The work done by NCDHHS and CPS is challenging and complex and requires a skilled workforce to engage with families and navigate all the decision points.¹³⁸ If there are staff shortages, or if staff is new or turns over frequently, there is not adequate time to spend with every case.¹³⁹ In addition to skill, adequate staffing is necessary to complete the work and avoid delays. Jatoia Potts, a parent advocate from Emancipate NC, testified to her experience of caseworker turnover in that five different social workers while her children were in state custody.¹⁴⁰

Staffing Shortages and Effects on Rylan's Law Implementation

The Committee heard that staffing challenges limit county DSS offices' ability to implement Rylan's law and ensure visitations are conducted.¹⁴¹ Staffing has reached a crisis after several years of retirements, resignations, and vacancies in county child welfare offices. Staff shortages and limited resources challenge the department's ability to conduct the visits according to Rylan's Law. According to Laura Matthews-Jolly, Assistant Professor of Law at North Carolina Central University, the system is ostensibly designed to strengthen families and promote the well-being of children, but the default norms in North Carolina are inadequate.¹⁴²

The staffing shortage worsened during the pandemic and has not recovered.¹⁴³ Representative Loftis reported that COVID-19 impacted staffing, and some counties still struggle to find enough employees.¹⁴⁴ The average turnover rate was over 30 percent in 2023, according to an internal letter from Peter West, section chief for the North Carolina Division of Social Services county operations.¹⁴⁵

Practices surrounding Rylan's Law remain inconsistent.¹⁴⁶ Gail Osborne, Executive Director at Foster Family Alliance of North Carolina reported three instances in the last year, in which Rylan's Law visits were not scheduled or canceled.³⁶ She also provided a personal example in which Rylan's Law was not followed. In this case, social workers did not conduct Rylan's Law visits for

¹³⁸ Ibid.

¹³⁹ Cauley Testimony, 8/7/24 *Web Briefing*, p. 26.

¹⁴⁰ Potts Testimony, 7/24/24 *Web Briefing*, p. 8.

¹⁴¹ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 5.

¹⁴² Ibid., p. 5.

¹⁴³ North Carolina Department of Health and Human Services, Internal Letter, *Child Welfare Workload Study*, Peter West, Section Chief for County Operations, Mar. 21, 2024
<https://www.ncdhhs.gov/cws212024/download?attachment>.

¹⁴⁴ Loftis Testimony, 9/27/24 *Web Briefing*, p. 9.

¹⁴⁵ North Carolina Department of Health and Human Services, Internal Letter, *Child Welfare Workload Study*, Peter West, Section Chief for County Operations, Mar. 21, 2024
<https://www.ncdhhs.gov/cws212024/download?attachment>.

¹⁴⁶ Ibid.

a medically fragile child in her care.¹⁴⁷ The incident required intervention by state leadership, and the child’s reunification with the family was delayed until supervised visits were completed.¹⁴⁸

According to Ryan O’Donnell, former foster parent and creator of Your Case Plan, many workers are untrained, unfamiliar with the rules and laws, or too overworked to follow them.¹⁴⁹ Child welfare workers are also handling more intense needs involving drug abuse, domestic violence, and mental health problems. Workers often feel overwhelmed despite having caseloads that largely meet state guidelines.¹⁵⁰ Ryan O’Donnell emphasized that social workers can use Rylan’s Law to delay reunification by not completing the two supervised visits.¹⁵¹ These delays matter because parental rights can be terminated if children are not home for enough time.¹⁵² Practitioners report that counties’ DSS will only begin to consider unsupervised visitation six to eight months into a case, and in Ryan O’Donnell’s experience as a foster parent, it took two years for the social worker to conduct Rylan’s visits.¹⁵³

Conversely, testimony suggests that the full implementation of Rylan’s Law, supported by full funding for regional offices, could significantly enhance both statewide and individual case outcomes. Wendy Sotolongo highlighted that in her experience working with other attorneys, the state’s intervention through regional supervision has effectively corrected errors and improved case trajectories. She emphasized that the purpose of Rylan’s Law—to strengthen regional oversight—has already demonstrated its value and recommends that it be fully funded.¹⁵⁴

Finding IV: Because Rylan’s Law has not been fully implemented, data collection practices, which are necessary to identify disparities, have yet to be improved and an advanced tracking system has yet to be established.

North Carolina has struggled to transition from legacy to new systems.¹⁵⁵ The state spent \$100 million to launch a statewide child welfare information system through a project called “NC FAST.” Ryan O’Donnell, creator of Your Case Plan, an online tool that improves case communication and engagement between varying stakeholders within the child welfare system

¹⁴⁷ Osborne Testimony, 7/24/24 *Web Briefing*, p. 5.

¹⁴⁸ Ibid.

¹⁴⁹ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 13, p. 29.

¹⁵⁰ North Carolina Department of Health and Human Services, Internal Letter, *Child Welfare Workload Study*, Peter West, Section Chief for County Operations, Mar. 21, 2024, <https://www.ncdhhs.gov/cws212024/download?attachment>.

¹⁵¹ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 13.

¹⁵² Ibid., p. 13.

¹⁵³ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 13; Matthews-Jolly, 7/12/24 *Web Briefing*, p. 5.

¹⁵⁴ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 28.

¹⁵⁵ Putnam-Hornstein Testimony, 7/12/24 *Web Briefing*, p. 26.

reported that only specific modules of the system were implemented in select counties and were “buggy and unusable.”¹⁵⁶ Despite recent updates to NC FAST, it remains rudimentary.

Due to the issues with NC FAST, the state awarded a new contract last year to a different vendor, NC PATH, to “start from scratch.”¹⁵⁷ There are plans to roll out this state-of-the-art child welfare case management system in 2025.¹⁵⁸ NC PATH will incorporate a new practice model.¹⁵⁹ The system is intended to create efficiencies so that workers and supervisors can better manage their cases and minimize the time spent in the data system.¹⁶⁰ Following the rollout, there will be training on best practices, decision points, and how it is automated.¹⁶¹ The training will start with intake and assessment education and then add education on in-home services, permanency plans, foster care, and adoptions.¹⁶²

The state also lacks a comprehensive statewide data system.¹⁶³ According to Wendy Sotolongo Parent Defender for the North Carolina Office of the Parent Defender, more data is needed.¹⁶⁴ The third-party evaluation of North Carolina’s child welfare system recommended an enhanced data tracking system.¹⁶⁵ Currently, individual counties use different systems for intake and assessments because they do not have the resources to purchase new technology.¹⁶⁶ No one system exists for North Carolina’s 100 counties—75 counties are not in a state system at all.¹⁶⁷ Twenty-five counties are conducting intake and assessments in an older system, and 15 counties use an end-to-end system.¹⁶⁸ Due to the lack of a cohesive system, county directors shared that they’ve had to “fly blind” without access to basic case information.¹⁶⁹

The lack of a fully functioning data system creates reporting challenges for CPS workers. Frontline staff, including attorneys, often do not have all the information and must interact with multiple

¹⁵⁶ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 14.

¹⁵⁷ *Ibid.*, p. 14.

¹⁵⁸ Cauley Testimony, 8/7/24 *Web Briefing*, p. 14.

¹⁵⁹ *Ibid.*, p. 24.

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

¹⁶³ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 28; O’Donnell Testimony, 7/24/24 *Web Briefing*, pp. 13-4; Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 21; Putnam-Hornstein Testimony, 7/12/24 *Web Briefing*, p. 21.

¹⁶⁴ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 28; Riley Testimony, 7/12/24 *Web Briefing*, p. 27.

¹⁶⁵ Cauley Testimony, 8/7/24 *Web Briefing*, p. 14.

¹⁶⁶ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 25.

¹⁶⁷ Cauley Testimony, 8/7/24 *Web Briefing*, p. 24.

¹⁶⁸ *Ibid.*, p. 24.

¹⁶⁹ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 25.

systems when working across county lines.¹⁷⁰ Eutophia Lane, a family advocate with lived experience, stated there is a need to continue to refine the system via comprehensive data collection, analysis, refined algorithms, and pattern recognition.¹⁷¹

Civil Rights and the North Carolina Department of Health and Human Services' Discretion

The Committee heard that data is vital in the context of civil rights.¹⁷² There is a need to develop an honest and robust source of information about what is happening in the system, collectively and within individual counties, especially for marginalized groups touched by the CPS system.¹⁷³ Failure to capture and report statewide data accurately leads to a lack of transparency and accountability.¹⁷⁴

Emily Putnam-Hornstein, Professor at The University of North Carolina at Chapel Hill, testified to the need for greater transparency. She stated:

“I think greater transparency is really important. And I also think that the division and the counties should be responsible for releasing more information to communities and to the public about the decisions that are being made. I think that we could all agree, and it would be tremendous for there to be ... greater public accountability through transparency.”¹⁷⁵

North Carolina continues to use risk assessment and safety tools that are significantly out of date.¹⁷⁶ The structured decision-making risk tools were recently updated, but even so, they are unsophisticated. Workers manually gather and enter a handful of data elements to determine safety and risk.¹⁷⁷ The assessment tools rely solely on these data points, which do not provide a holistic understanding of the protective factors available to the family or child safety concerns.¹⁷⁸ Professor Putnam-Hornstein recommended to look closely at today's technology and best practices for risk and safety assessment, not what tools were appropriate in the 1990s or early 2000s.¹⁷⁹

¹⁷⁰ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 21.

¹⁷¹ Lane Testimony, 8/7/24 *Web Briefing*, p. 29.

¹⁷² Grafstein Testimony, 8/7/24 *Web Briefing*, p. 10.

¹⁷³ *Ibid.*, p. 10.

¹⁷⁴ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 21.

¹⁷⁵ Putnam-Hornstein Testimony, 7/12/24 *Web Briefing*, p. 26.

¹⁷⁶ *Ibid.*, p. 26.

¹⁷⁷ *Ibid.*, p. 23.

¹⁷⁸ *Ibid.*, p. 26.

¹⁷⁹ *Ibid.*, p. 26.

Limitations of Quantitative Data Analysis

The Committee heard testimony highlighting concerns with data collection. Miriam Mack, Policy Director Family Defense Practice at The Bronx Defenders opined that data is not neutral, and any data that is collected can be tainted by racism and classism, and centralized data could further surveil families by allowing more agencies to speak together.¹⁸⁰ Racial biases may underlie the collected data, shaping the decisions and determinations made by those who collect the information.¹⁸¹ Data can reveal disparities but cannot necessarily pinpoint what drives the data.¹⁸²

The Committee heard testimony emphasizing the need for the child welfare system to credit lived experiences. Individual narratives are not often captured within traditional data collection systems.¹⁸³ Senator Grafstein testified that quantitative data collection and analysis are essential; however, the stories of affected individuals must be accounted for and taken seriously.¹⁸⁴ Anecdotes can be important indicators of errors in cultural practices or the system as a whole, and outcomes must reflect people's real-life experiences.¹⁸⁵

Qualitative data from impacted parents have intimate knowledge necessary to improve the child welfare system.¹⁸⁶ The experiences of affected individuals are an essential part of providing community support for legislative change, and their involvement incurs little cost to policymakers.¹⁸⁷

Finding V: Rylan's Law does not address disparities affecting low-income and protected groups of families in the child welfare system, and these disparities have continued since the Law's partial implementation.

Emily Putnam-Hornstein, Professor at The University of North Carolina at Chapel Hill noted in her testimony, "Rylan's Law ... was crafted not because of civil rights concerns of parents, but because we failed in our obligation to protect a one-year-old boy and an unknown number of other children." In reviewing the impact of the partial implementation of Rylan's Law, she stated that she "did not find any notable changes in the racial distribution of children who are investigated for maltreatment since the passage of Rylan's Law." Based on her analysis of data

¹⁸⁰ Mack Testimony, 7/12/24 *Web Briefing*, p. 26.

¹⁸¹ Ibid., pp. 26-7.

¹⁸² Grafstein Testimony, 8/7/24 *Web Briefing*, p. 10.

¹⁸³ Ibid., p. 11.

¹⁸⁴ Ibid., p. 10.

¹⁸⁵ Ibid., p. 27.

¹⁸⁶ Sotolongo Testimony 8/7/24 *Web Briefing*, p. 19.

¹⁸⁷ Ibid.

“for children reported in the years prior to Rylan’s Law and in the years that followed, in every single year White children who were investigated were more likely to be placed in foster care than Black or Hispanic children. These same patterns emerged when I restricted the data to victims of maltreatment. In other words, we place a larger number of White child victims in foster care than Black or Hispanic victims.”¹⁸⁸

More generally, Professor Putnam-Hornstein reported that between July 2022 and June 2023, roughly 3.5 percent of Black children in North Carolina experienced an investigation for abuse or neglect, versus 2.1 percent of Hispanic children, and 2.3 percent of White children.¹⁸⁹ There were no notable changes in the racial distribution of children who are investigated for maltreatment since the passage of Rylan’s Law other than a modest shift away from children who are classified as White to those whose race is recorded as Other.¹⁹⁰ This was accompanied by a slight increase in the share of children who were classified as of Hispanic ethnicity. The share of investigations involving Black children has remained constant at roughly one third.¹⁹¹

Naomi Schaefer Riley reported that Black children in the U.S. are three times more likely to die from abuse or neglect than White children, and this number has been rising.¹⁹² Nationwide, 549 black children died from maltreatment in 2022, 92 more children than in 2021.¹⁹³ In North Carolina, Black children are almost twice as likely and Native American children are almost three times as likely to be abused as White children.¹⁹⁴

National data shows that more than half of Black children in the U.S. is are expected to face a child abuse investigation by their 18th birthday.¹⁹⁵ In North Carolina, Black children are involved in one third of child welfare investigations, with little change since the passage of Rylan’s Law.¹⁹⁶ Indigenous children, though only one percent of the state population, are disproportionately subjected to investigations, representing three to four percent of maltreatment cases.¹⁹⁷ This

¹⁸⁸ Putnam-Hornstein Testimony, 7/12/24 *Briefing*, p. 11.

¹⁸⁹ *Ibid.*, p. 10.

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*

¹⁹² U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2024). *Child Maltreatment 2022*. P. 54. Available from <https://www.acf.hhs.gov/cb/data-research/child-maltreatment>; Riley Testimony, 7/12/24 *Briefing*, p. 12.

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*

¹⁹⁵ Hyunil Kim, Christopher Wildeman, Melissa Jonson-Reid, Brett Drake, “Lifetime Prevalence of Investigating Child Maltreatment Among US Children,” *American Journal of Public Health* 107, no. 2 (February 1, 2017): pp. 274-280. <https://doi.org/10.2105/AJPH.2016.303545>.

¹⁹⁶ Putnam-Hornstein Testimony, 7/12/24 *Briefing*, p. 10.

¹⁹⁷ Movement For Family Power and Civil Rights Corps. Written Statement at 10; Youngmin Yi et al., “State-level Variation in the Cumulative Prevalence of Child Welfare System Contact, 2015–2019,” *Children and Youth Services Review* 147 (February 4, 2023): 106832, <https://doi.org/10.1016/j.childyouth.2023.106832>.

disproportionality extends to foster care placements and adoption. Black children are more likely to enter the foster system but are less likely to be adopted, leaving them overrepresented among children waiting for permanent homes.¹⁹⁸ Moreover, Native American children are three times more likely than White children to enter foster care by age 18.¹⁹⁹

Poverty plays a significant role in these disparities. Policies requiring impoverished parents to pay child support while their children are in foster care often lead to termination of parental rights when payments are missed²⁰⁰—are practices that stakeholders deem ineffective and unnecessarily punitive.²⁰¹ Thirty percent of cases in North Carolina involve failure to pay foster care fees as a basis of termination.²⁰² The lack of material support for struggling families, such as access to affordable housing and childcare, further entrenches these inequities. For example, Raleigh’s Section 8 housing waitlist has been closed for years, leaving many families without viable solutions.²⁰³

Recommendations from stakeholders emphasize a shift away from punitive approaches to ones that prioritize family preservation and support. Suggestions include eliminating poverty as a basis for child removal by providing stipends to families at risk of separation,²⁰⁴ and developing holistic community-based support centers like Together with Families in Marietta, Georgia.²⁰⁵ Such measures suggest addressing the structural inequities that continue to disproportionately impact low-income and minority families under the child welfare system.

The challenges low-income families face are compounded by the broad and subjective statutory definition of “neglect” in North Carolina, which includes situations where parents fail to provide

¹⁹⁸ Albert Testimony, 7/24/24 *Briefing*, p. 16; Putnam-Hornstein Testimony, 7/12/24 *Briefing*, pp. 10-1; Kids Count Data Center, “Children in Foster Care Waiting for Adoption by Race and Hispanic Origin in North Carolina.” Annie E. Casey Foundation, <https://datacenter.aecf.org/data/bar/6674-children-in-foster-care-waiting-for-adoption-by-race-and-hispanic-origin?loc=1&loct=1#2/35/false/2048/2601,2598/13724>.

¹⁹⁹ Eichner, Maxine, *Slow to Support Families, Quick to Remove Children: US Exceptionalism in the Role of Government in Children’s Lives* (2023). The State’s Powers to Intervene in Family Life, Prof. Dr. Arkadiusz Wudarski, ed. (Forthcoming), UNC Legal Studies Research Paper No. 4421484, Available at SSRN: <https://ssrn.com/abstract=4421484> or <http://dx.doi.org/10.2139/ssrn.4421484> (hereafter cited as Eichner, *Slow to Support Families, Quick to Remove Children: US Exceptionalism in the Role of Government in Children’s Lives*).

²⁰⁰ O’Donnell Testimony, 7/24/24 *Briefing*, p. 34; Albert Testimony, 7/24/24 *Briefing*, p. 35.

²⁰¹ Wexler Written Statement 2 at 32; Lenoir-Peek Written Statement at 1; O’Donnell Testimony, 7/24/24 *Briefing*, p. 34.

²⁰² Albert Testimony, 7/24/24 *Web Briefing*, p. 17; Joseph Shapiro, “In Some States, an Unpaid Foster Care Bill Could Mean Parents Lose Their Kids Forever,” *NPR*, January 19, 2023, <https://www.sdpb.org/2023-01-19/in-some-states-an-unpaid-foster-care-bill-could-mean-parents-lose-their-kids-forever>.

²⁰³ Lenoir-Peek Written Statement at 2.

²⁰⁴ Movement For Family Power and Civil Rights Corps. Written Statement at 14; Wallace Written Statement 3 at 1.

²⁰⁵ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 4.

proper care, supervision, or discipline, or allow environments deemed injurious to the juvenile's welfare.²⁰⁶ This expansive definition, testimony indicated, often conflates poverty with neglect and disproportionately targets families who are unable to meet basic needs due to economic hardship.²⁰⁷

Federal data reveal that in North Carolina, 56 percent of foster care entries in 2022 were not linked to accusations of drug or alcohol abuse.²⁰⁸ Furthermore, testimony highlights that poverty-related challenges, such as housing instability and inaccessible childcare, are frequently categorized as neglect.²⁰⁹ Seven out of ten child welfare cases in North Carolina involve allegations of neglect rather than abuse.²¹⁰

Economic disparities are noted to further exacerbate these outcomes. Studies indicate that families living below the federal poverty line are 40 times more likely to encounter the child protective system than middle-income families.²¹¹ Nationally, nearly 85 percent of families investigated by child welfare systems have incomes below 200 percent of the poverty line.²¹² Miriam Mack, Policy Director Family Defense Practice at The Bronx Defenders, compares state spending for social support programs for families in poverty with current spending on child welfare programs to illustrate this point: for every 100 impoverished families in North Carolina, only five receive cash assistance,²¹³ despite the state spending 13 times more on foster care and adoption than on family preservation programs.²¹⁴ Civil Rights Corps and Movement for Family Power argue that the lack

²⁰⁶ Wexler Written Statement 2 at 13-14.

²⁰⁷ Ibid; Grafstein Testimony, 8/7/24 *Web Briefing*, p. 10.

²⁰⁸ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Adoption and Foster Care Analysis and Reporting: North Carolina FY 2022 data, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-tar-nc-2022.pdf>; Wexler Statement 1 at 2.

²⁰⁹ Mack Testimony, 7/12/24 *Web Briefing*, p. 18; Movement For Family Power and Civil Rights Corps. Written Statement at 9.

²¹⁰ "North Carolina" North Carolina - Child Welfare Outcomes, 2022, cwoutcomes.acf.hhs.gov/cwodatasite/byState/north-carolina/.

²¹¹ Movement For Family Power and Civil Rights Corps. Written Statement at 8; Whitney L. Rostad, Tia McGill Rogers & Mark J. Chaffin, The Influence of Concrete Support on Child Welfare Program Engagement, Progress, and Recurrence, 72 CHILD. & YOUTH SERVS. REV. 26, 26 (2017).

²¹² Mack Testimony, 7/12/24 *Web Briefing*, p. 17.

²¹³ Ibid.

²¹⁴ Ibid.

of state support of these programs impacts foster care placements.²¹⁵ In North Carolina, 15 percent of foster care placements occur due to inadequate housing nearly double the national average.²¹⁶

Written testimony submitted to the Committee pointed to broader systemic issues that likely compound the disproportionate representation of low income and protected groups within the child welfare system.

Evidence shows that financial assistance significantly reduces child welfare involvement. For instance, a \$1/hour increase in the minimum wage correlates with a 9.6 percent decline in neglect reports. Similarly, housing vouchers for homeless families reduce foster care placements by over 50 percent.²¹⁷

The relation between poverty and child welfare involvement is far from simple, however. Poverty is correlated with child maltreatment, but correlation is not the same as causation.

Another factor correlated with child maltreatment is family structure.²¹⁸ Based on national figures, the incidence of physical abuse for a child living with a single parent and a non-relative male is 19.5 per 1000, which is twice as high as children living with unmarried biological parents, and it is 10 times as high as for married biological parents.²¹⁹ Single parenthood is a "risk factor for child maltreatment" in North Carolina,²²⁰ and 66 percent of Black children, compared to 24 percent of White children, live in single parent households.²²¹

Finding VI: Rylan’s Law was not designed to address the special needs of individuals with disabilities, and such individuals continue to be overrepresented in the child welfare system, with a disproportionate number of children in protected categories placed in institutions.

Children with Disabilities

Children and parents with disabilities are overrepresented in the child welfare system.²²² Disruptions in placement for children with disabilities are risky, and extra caution is warranted

²¹⁵ Movement For Family Power and Civil Rights Corps. Written Statement at 4-7, 12.

²¹⁶ Ibid at 12.

²¹⁷ Eichner, *Slow to Support Families, Quick to Remove Children: US Exceptionalism in the Role of Government in Children’s Lives*,

²¹⁸ Riley Testimony, 7/12/24 Briefing, p. 13.

²¹⁹ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2024). *Child Maltreatment 2022*. Available from <https://www.acf.hhs.gov/cb/data-research/child-maltreatment>; Riley Testimony, 7/12/24 Briefing, p. 13.

²²⁰ Riley Testimony, 7/12/24 Briefing, p. 13.

²²¹ Kids Count Data, *Children in single-parent families by race and ethnicity (Percent & Number)*, <https://datacenter.aecf.org/data/customreports/35/106-107,9862>.

²²² Dunn Testimony, 7/24/24 Web Briefing, p. 22.

before changes in custody are considered.²²³ The trauma of removing a child with a disability from the home can compound existing disabilities and serve as the foundation for additional challenges.²²⁴

The testimonies described the child welfare system as inadequate, making it difficult for children with disabilities to receive the services and support they need.²²⁵ Caregivers with or without disabilities may have economic challenges that are conflated with abuse, neglect, or dependency by untrained workers.²²⁶ For example, outpatient mental health services are difficult to access so that a child may be brought to the emergency department for treatment. Child protective services may be called for assessment in the hospital, and the family is entered into the system. According to Senator Grafstein, this scenario is representative of gaps in the behavioral health system that are misconstrued as neglect.²²⁷ The assumption is often made that a child would be better served by removal or placement in an institutional setting.²²⁸

The Committee heard testimony that county Department of Social Services (DSS) employees are not trained to understand the educational rights and needs of children with disabilities.²²⁹ Gail Osborne, Executive Director at Foster Family Alliance of North Carolina testified to delays in school enrollment for children with disabilities in foster care.²³⁰ Children with disabilities are not being enrolled in school in a timely manner after foster placement, and the Every Student Succeeds Act is not being adhered to by the school systems.²³¹ While children wait to be enrolled in school, they are not receiving critical services provided through Individualized Educational Plans.²³²

The preferred placement option for kids with disabilities in the North Carolina Department of Health and Human Services (NCDHSS) foster care system is kinship or foster families. Still, many of the children end up in intermediate care facilities for intellectual and developmental disabilities, hospitals, or psychiatric residential treatment facilities.²³³ According to a recent federal complaint,

²²³ Ibid., p. 23.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Grafstein Testimony, 8/7/24 *Web Briefing*, p. 10.

²²⁸ Ibid., p. 10.

²²⁹ Osborne Testimony, 7/24/24 *Web Briefing*, p. 6.

²³⁰ Ibid.

²³¹ Ibid.

²³² Ibid.

²³³ Dunn Testimony, 7/24/24 *Web Briefing*, p. 24.

approximately 500 disabled children in North Carolina's foster care system are placed in psychiatric residential facilities yearly rather than providing appropriate outpatient services.²³⁴

These types of institutions may resemble carceral facilities and focus on structure, rules, and authority with minimal provision of mental health services.²³⁵ A USA Today investigation uncovered North Carolina children in certain psychiatric facilities were confined to 24-hour care and denied services without medical justification.²³⁶

There are fewer county DSS social worker visits to connect children with families or facilitate reunification while they are institutionalized.²³⁷ Corye Dunn, Director of Public Policy at Disability Rights North Carolina, emphasized that this practice represents a unique type of neglect where the children are under the care of professionals with no involvement of foster or biological parents.²³⁸

She testified that, in her opinion, in North Carolina, there is layered discrimination in the child welfare system based on poverty, race, national origin, religion, and disability.²³⁹ The system places many children with disabilities in healthcare settings rather than with families.²⁴⁰ Black, Indigenous, and Latino children are institutionalized more often than White children.²⁴¹ Black children are also more likely to end up in psychiatric residential treatment facilities and stay for longer, with worse outcomes.²⁴²

Parents with Disabilities

According to Corye Dunn, the *Olmstead* decision is the “North Star” of disability rights, and the rights of parents with disabilities involved in the child welfare system should be filtered through

²³⁴ *Timothy B. ex rel. Ward v. Kinsley*, No. 1:22-cv-1046 (M.D.N.C. [2022]); Movement for Family Power and Civil Rights Corp. Written Statement at 7, <https://disabilityrightsnrc.org/wp-content/uploads/2022/12/2022-12-06-Timothy-B-v-Kinsley-Complaint.pdf>; Movement for Family Power and Civil Rights Corp. Written Statement at 7.

²³⁵ Dunn Testimony, 7/24/24 *Web Briefing*, p. 32.

²³⁶ Movement for Family Power and Civil Rights Corp. Written Statement at 7; [Kids suffer inside dismal North Carolina psychiatric centers](https://subscribe.usatoday.com/restricted?slug=restricted&redirect=true&offer=W-M7&gnt-eid=control), <https://subscribe.usatoday.com/restricted?slug=restricted&redirect=true&offer=W-M7&gnt-eid=control>

²³⁷ Dunn Testimony, 7/24/24 *Web Briefing*, p. 32.

²³⁸ *Ibid.*, p. 24.

²³⁹ *Ibid.*

²⁴⁰ *Ibid.*

²⁴¹ Dunn Testimony, 7/24/24 *Web Briefing*, p. 24; Casey Organization, *What are the outcomes for youth placed in group and institutional settings?*, June 29, 2022, [https://www.casey.org/group-placement-impacts/~:text=More%20than%20two%2Dthirds%20\(68,their%20reliance%20on%20these%20settings.](https://www.casey.org/group-placement-impacts/~:text=More%20than%20two%2Dthirds%20(68,their%20reliance%20on%20these%20settings.)

²⁴² *Ibid.*, p. 24.

this mandate.²⁴³ On June 22, 1999, the United States Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act.²⁴⁴ The Court held that public entities must provide community-based services to parents and children with disabilities when the services are appropriate, acceptable to affected individuals, and can be reasonably accommodated, considering the resources available to the public entity and the needs of others who are receiving disability services from the entity.²⁴⁵

Children of parents with disabilities are removed from their homes with alarming frequency. Removal rates from parents with psychiatric disabilities are as high as 70 to 80 percent and 40 to 80 percent from parents with an intellectual disability.²⁴⁶

Senator Grafstein testified that parents with disabilities often face assumptions of incompetence or the presumption that they are incapable of learning new parenting skills.²⁴⁷ These assumptions can lead to court interventions and the creation of service plans that purport to correct parents' neglectful or abusive behavior associated with their disabilities. However, service plans in this context do not provide appropriate or legally mandated accommodations for parents with disabilities. They often fail to provide families with the necessary resources and support, like access to quality health care, transportation and housing assistance, and childcare.

Parents with disabilities may have unmet needs that result in behavior that looks like abuse or dependency and the correlation between disability and poverty may be mistaken for neglect.²⁴⁸ These parents may face involvement with the child welfare system but would be better served by the provision of disability-related services. The inadequate system of services results from an underfunded and inadequately managed social service system.²⁴⁹ Corye Dunn noted that "Our publicly funded healthcare system for people with disabilities has massive holes in it. It is not a safety net."²⁵⁰

²⁴³ Ibid., p. 23.

²⁴⁴ *Olmstead v. L.C.*, 527 U.S. 581.

²⁴⁵ Ibid.

²⁴⁶ McDaniel Written Statement at 8; National Council on Disability, *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities*, September 27, 2012 <https://parentalrightsfoundation.org/parental-rights-and-disabilities/~:text=Removal%20rates%20where%20parents%20have,discriminatory%20treatment%20in%20custody%20cases>.

²⁴⁷ Grafstein Testimony, 8/7/24 *Web Briefing*, p. 10.

²⁴⁸ Ibid., p. 10.

²⁴⁹ Dunn Testimony, 7/24/24 *Web Briefing*, p. 23.

²⁵⁰ Ibid.

The Committee heard accounts of parents with disabilities and their experiences with the NCDHHS. Bashira McDaniel, an impacted parent, shared that her child was removed from the home after voluntarily seeking medical care for bipolar disorder.²⁵¹ Per the testimony, reports from social workers described the child as well cared for.²⁵² However, the child remained in foster care for two years despite clearance from healthcare providers one month after the child was removed.²⁵³ Long wait times for parental capacity evaluations and court hearings delayed the reunification and contributed to the long-lasting emotional effects of trauma for the mother and child.²⁵⁴ Jeeter Anderson, a North Carolina resident, testified that his sister with mental illness was denied appropriate mental health services that could've potentially helped keep her child in the home.²⁵⁵ The testimony described the absence of support and proper help as traumatic and unjust. The case remains unresolved and continues to impact their family profoundly.²⁵⁶

Effects of Rylan's Law on People with Disabilities

According to Corye Dunn, Rylan's Law is a well-intended response to real risks, but it has compounded the biases against people with disabilities in the child welfare system.²⁵⁷ Families of origin should receive healthy supports so fewer children are removed from their homes.²⁵⁸ Provision of services requires a greater involvement of social service workers with a higher level of expertise than is currently available. For families to thrive, they need more effective, seamless, and trauma-informed systems of care that involve parents, siblings, and caregivers.²⁵⁹

The Committee heard that since the passing of Rylan's Law, North Carolina has faced multiple lawsuits for the over-institutionalization of children.²⁶⁰ As of September 30, 2022, 12 percent of North Carolina foster children were in group homes or institutions, a rate more than 30 percent above the national average.²⁶¹ Conversely, North Carolina uses kinship foster care at a rate nearly

²⁵¹ McDaniel Testimony, 8/23/24 *Web Briefing*, p. 38.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ Ibid.

²⁵⁵ Anderson Testimony, 8/7/24 *Web Briefing*, pp. 29-30.

²⁵⁶ Ibid.

²⁵⁷ Dunn Testimony, 7/24/24 *Web Briefing*, p. 23.

²⁵⁸ Ibid., p. 24.

²⁵⁹ Ibid., p. 22, p. 33.

²⁶⁰ Movement for Family Power and Civil Rights Corp. Written Statement at 7; *Timothy B. et al. v. Kinsley*, No. 1:22-cv-01046.

²⁶¹ Child Welfare League, *North Carolina's Children*, <https://www.cwla.org/wp-content/uploads/2024/04/NorthCarolina-2024.pdf>

30 percent below the national average.²⁶² In 2021, 40 percent of youth placed in institutions were moved to out-of-state facilities over the course of a year.²⁶³ Moving a child from their communities can lead to a long-lasting disconnect from their families.²⁶⁴ When the NCDHSS institutionalizes a child, the average stay is 700-800 days, which is much longer than the national average of eight months, according to the testimony, and has worsened since the passage of the Law.²⁶⁵

Finding VII: Rylan’s Law has not improved default visitation norms and has led to further delays in parental reunifications for children in the child welfare system.

Impacts of Rylan’s Law on Visitation

The Committee heard that Rylan's Law changed North Carolina's visitation law and has negatively affected family reunification rates.²⁶⁶ Pursuant to Rylan's Law, county Department of Social Services (DSS) staff must observe two home visits seven days apart before recommending unsupervised visits.²⁶⁷ The visits must occur within 30 days of a hearing, at which social services staff recommend a visitation schedule.²⁶⁸

The state has failed to fully implement critical reforms of Rylan’s Law, including supervised visits. Rylan’s Law was intended to improve child welfare oversight but often delays reunification.²⁶⁹ Laura Matthews-Jolly, Assistant Professor of Law at North Carolina Central University reported that county DSS staff frequently only consider unsupervised visitation six to eight months into a case.²⁷⁰ This practice requires that parents must demonstrate that they are compliant and worthy of meaningful contact with their children.²⁷¹

Several panelists expressed concern about the discretion allowed under Rylan’s Law. Social workers dictate visitation schedules and can choose not to follow child welfare policies.²⁷²

²⁶² Wexler Written Statement 2 at 27; “State-level Data for Understanding Child Welfare in the United States - Child Trends,” Child Trends, n.d., <https://www.childtrends.org/publications/state-level-data-for-understanding-child-welfare-in-the-united-states>.

²⁶³ Movement for Family Power and Civil Rights Corp. Written Statement at 7; <https://www.childrensrights.org/wp-content/uploads/1970/01/2022-12-06-Timothy-B-v-Kinsley-Complaint.pdf>

²⁶⁴ Grafstein Testimony, 8/7/24 *Web Briefing*, pp. 8-11.

²⁶⁵ Movement for Family Power and Civil Rights Corp. Written Statement at 7; Albert Testimony, 7/24/24 *Web Briefing*, p. 17.

²⁶⁶ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 4.

²⁶⁷ Ch. S.L. 2017-41 (H.B. 630).

²⁶⁸ *Id.*

²⁶⁹ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 13.

²⁷⁰ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 5.

²⁷¹ *Ibid.*, p. 6.

²⁷² *Ibid.*, p. 31.

Professor Matthews-Jolly explained that restricting family contact should only occur when there is a demonstrated risk of acute harm to a child.²⁷³ Too many determinations about whether families can be together are based on vague hypothetical concerns that lack evidence of safety hazards.²⁷⁴ Corye Dunn, Director of Public Policy at Disability Rights North Carolina, reported that while Rylan's law was a well-intended response to real risks, there needs to be a greater involvement of people with higher levels of expertise for the system of care to be more effective and trauma-informed.²⁷⁵

Panelists criticized Rylan's Law, arguing that it creates additional barriers to reunification that weaken family bonds.²⁷⁶ Meaningful time with parents reduces the time children spend in the system, increases the likelihood of sustained family reunification, and results in multiple positive outcomes for children even when family reunification does not occur.²⁷⁷

North Carolina's Visitation Law

North Carolina law provides that visitation should occur in the child's best interest, consistent with the child's health and safety.²⁷⁸ The law is vague, so default county norms have arisen from the law, local interpretation, cultural practices, and resources.²⁷⁹

Generally, social service workers provide one hour of supervised visitation per week.²⁸⁰ According to Professor Matthews-Jolly, one hour per week, or 52 hours per year, is insufficient.²⁸¹ In addition, the visitation can be curtailed further at the discretion of judges.²⁸² Annick Lenoir-Peek, Deputy Parent Defender for the North Carolina Office of the Parent Defender explained that for a family

²⁷³ Ibid., p. 6.

²⁷⁴ Ibid., p. 6.

²⁷⁵ Dunn Testimony, 7/24/24 *Web Briefing*, p. 23.

²⁷⁶ Potts Testimony, 7/24/24 *Web Briefing*, p. 8; Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 9.

²⁷⁷ Ibid., p. 4; Partners for our Children. "Family Visitation in Child Welfare: Helping Children Cope with separation While in Foster Care." April 2011, p. 1. https://partnersforourchildren.org/wp-content/uploads/2013/08/2011_family_visitation....._helping_children_cope_brief.pdf

²⁷⁸ North Carolina Gen. Stat. § 50-13.1.

²⁷⁹ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 31; North Carolina Judicial Branch, Child Custody NCGS Chapter 50-13, [https://www.nccourts.gov/help-topics/family-and-children/child-custody::~:~:text=If%20the%20parents%20cannot%20agree%2C%20a%20court%20may%20have%20to%20make%20the%20decision.&text=Judges%20decide%20child%20custody%20based%20on%20%E2%80%9Cthe,factors%20affecting%20the%20welfare%20of%20the%20child.](https://www.nccourts.gov/help-topics/family-and-children/child-custody/~:text=If%20the%20parents%20cannot%20agree%2C%20a%20court%20may%20have%20to%20make%20the%20decision.&text=Judges%20decide%20child%20custody%20based%20on%20%E2%80%9Cthe,factors%20affecting%20the%20welfare%20of%20the%20child.)

²⁸⁰ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 31.

²⁸¹ Ibid., p. 5.

²⁸² Ibid., p. 6.

working toward reunification, a reasonable amount of time together is 17 hours per week (10 percent of a year).²⁸³

The American Academy of Pediatrics has advised that family separation can cause irreparable harm, disrupting a child's brain architecture and affecting their short and long-term health.²⁸⁴ Weekly visits, like in North Carolina, stretch the bounds of a young child's sense of time and do not allow for psychologically meaningful relationships.²⁸⁵ Extended supervision periods delay reunifications, causing prolonged separation and emotional stress for parents and children.²⁸⁶

The U.S. Department of Health and Human Services has issued guidance that states frequent visitation between parents and their children in the foster system is the best predictor of safe and lasting reunification.²⁸⁷ In 2022, the national average for parental or primary caretaker reunification rate was 46 percent.²⁸⁸ In North Carolina, only 30 percent of the 5,000 children who left North Carolina's foster system in the 2022-23 fiscal year were reunited with their parents.²⁸⁹ In Durham County, a county with fewer resources, the reunification rate is 22 percent, less than half the national average.²⁹⁰

The Committee heard that North Carolina's default visitation norms may limit the ability of a family to function normally. Provisions within Rylan's law require that social workers observe

²⁸³ Lenoir-Peek Written Statement at 2.

²⁸⁴ American Academy of Pediatrics. Committee on Early Childhood and Adoption and Dependent Care. Developmental Issues for Young Children in Foster Care. 2000. *PubMed* 106 (5): 1145–50. <https://pubmed.ncbi.nlm.nih.gov/11061791>

²⁸⁵ Sankaran, Vivek, Christopher Church and Monique Mitchell. 2019. "A Cure Worse than the Disease? The Impact of Removal on Children and Their Families." *Marquette Law Review* 102, Nr. 4 (1. January): 1161. <https://repository.law.umich.edu/articles/2055/>; American Academy of Pediatrics. Committee on Early Childhood and Adoption and Dependent Care. Developmental Issues for Young Children in Foster Care. 2000. *PubMed* 106 (5): 1145–50. <https://pubmed.ncbi.nlm.nih.gov/11061791>.

²⁸⁶ Albert Testimony, 7/24/24 *Web Briefing*, p. 17.

²⁸⁷ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 4; Administration for Children and Families, U.S. Department of Health and Human Services, Memo to State, Tribal, and Territorial Agencies Administering or Supervising the Administration of Titles IV-E and IV-B of the Social Security Act, and State and Tribal Court Improvement Programs, "Family Time and Visitation for Children and Youth in Out of Home Care", February 5, 2020, <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2002.pdf>.

²⁸⁸ Children's Bureau, An Office of the Administration of Children and Family: *Adoption and Foster Care Analysis and Reporting System (AFCARS) 2023*. <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-30.pdf>.

²⁸⁹ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 5; Bilman, Jeffrey, Whitney Clegg, and Nick Ochsner. "Best Interest of the Child." *The Assembly*. December 5, 2023. <https://www.theassemblync.com/politics/courts/child-welfare-investigation/>.

²⁹⁰ Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 5; O' Donnell Testimony, 7/24/24 *Web Briefing*, p. 12; Bilman, Jeffrey, Whitney Clegg, and Nick Ochsner. "Best Interest of the Child." *The Assembly*. December 5, 2023. <https://www.theassemblync.com/politics/courts/child-welfare-investigation/>.

two successful visits between the parent/caretaker and the child and document those visits for a judge before reunification. These visits must occur for no less than one hour each, and be conducted at least seven (7) days a part. It is also recommended that the two visits occur no more than thirty (30) days prior to the court hearing in which the agency recommends physical custody be returned to the parent/caretaker.²⁹¹ Professor Matthews-Jolly opined that family visitation in the least restrictive setting is necessary to maintain parental relationships, mitigate the trauma of family separation, and allow for family reunification.²⁹² Too frequently, the site of these visits is a sterile, unnatural room where a state employee is observing the parent and child.²⁹³ When visits occur in an artificial environment, parents may be unable to care for their children effectively, which can later be used in court as evidence in determining parental rights.²⁹⁴

Professor Matthews-Jolly also raised concerns about the role of guardians ad litem (GALs). Visitation can be curtailed further at the recommendation of GALs. GALs carry tremendous power in the courtroom that can be used to influence judge's decision making. GALs are not neutral observers and may limit family time based on perceived negative behavior from a child.²⁹⁵

Court Impacts

Wendy Sotolongo, Parent Defender for the North Carolina Office of the Parent Defender testified that courts often lack the availability to hold hearings for Rylan's visit cases.²⁹⁶ This has caused delays in reunification because Rylan's Law visits were not done in a timely manner.²⁹⁷ Courts are local, and some counties have insufficient resources, which can lead to delays in hearings.²⁹⁸ Court delays leave some children in foster care for years without permanency.²⁹⁹ Families are sometimes pressured into taking guardianship of children or risk the child being moved to another foster home as courts push this alternative for long, drawn-out cases.³⁰⁰

²⁹¹ North Carolina Gen. Stat 7B-903.1(c).

²⁹² Matthews-Jolly Testimony, 7/12/24 *Web Briefing*, p. 25.

²⁹³ *Ibid.*, p. 5.

²⁹⁴ *Ibid.*, p. 7.

²⁹⁵ *Ibid.*

²⁹⁶ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 23.

²⁹⁷ *Ibid.*, p. 23.

²⁹⁸ Cauley Testimony, 8/7/24 *Web Briefing*, p. 16.

²⁹⁹ Osborne Testimony, 7/24/24 *Web Briefing*, p. 6.

³⁰⁰ *Ibid.*, p. 6.

Finding VIII: Insufficient legal representation and legal resources contribute to delays in family reunification.

North Carolina's child welfare laws aim to protect children from harm while preserving family integrity when possible.³⁰¹ These laws emphasize parental and child rights, including the right to legal representation in abuse, neglect, and dependency cases.³⁰² Additionally, guardians ad litem (GALs),³⁰³ safeguard children's best interests in court. However, systemic challenges—such as attorney shortages, resource limitations, and delays in legal proceedings—undermine these protections and raise significant due process concerns.

Rylan's Law, which emphasizes family reunification efforts by requiring comprehensive home assessments and oversight, unintentionally exacerbates these issues by failing to address the shortage of legal resources. Without adequate legal support, parents and children struggle to navigate the complex child welfare system. Wendy Sotolongo, Parent Defender for the North Carolina Office of the Parent Defender and Senator Lisa Grafstein representing District 13 for the North Carolina State Senate highlighted how inadequate legal representation for parents delays court proceedings and hinders the timely resolution of cases. This lack of access to legal counsel leaves parents ill-equipped to advocate for their rights, often resulting in prolonged separation from their children.³⁰⁴ Delayed hearings also interfere with visitation requirements under Rylan's Law, further complicating efforts to rebuild and maintain familial bonds, a fundamental component of due process.³⁰⁵

Testimonies highlighted how delays in securing competent legal counsel can harm families.³⁰⁶ For instance, Wendy Sotolongo explained that parents may not have access to attorneys during a CPS investigation; in North Carolina the right to a court-appointed attorney does not attach until a petition alleging abuse is filed. She noted that providing legal representation before a petition is filed is a proven way to help stabilize families and prevent removal.³⁰⁷ Wendy Sotolongo also testified to a situation where an attorney was able to work out a consent order that allowed a child and mother to reside together using interdisciplinary representation. In less than six months, this mother went from not seeing her son in almost a year to having him back in her home full-time after six years of trying on her own without an attorney.³⁰⁸ As these examples suggest, challenges

³⁰¹ North Carolina Gen. Stat. § 7B-100 et. seq.

³⁰² North Carolina Gen. Stat. § 7B-602.

³⁰³ North Carolina Gen. Stat. § 7B-601.

³⁰⁴ Erwin Testimony, *8/23/24 Web Briefing*, p. 10; Cauley Testimony, *8/7/24 Web Briefing*, p. 16; Sotolongo Testimony, *8/7/24 Web Briefing*, p. 5.

³⁰⁵ Sotolongo Testimony, *8/7/24 Web Briefing*, p. 23.

³⁰⁶ Glover Testimony, *6/27/24 Community Forum*, pp. 11-2

³⁰⁷ Sotolongo Testimony, *8/7/24 Web Briefing*, p. 5.

³⁰⁸ *Ibid* p. 7.

to obtaining adequate and timely legal support can potentially infringe on parents' constitutional right to due process.

The broader implications of these due process concerns are evident in North Carolina's systemic challenges. In Durham County, children spend an average of 677 days in foster care due to case processing delays compared to 578 for Wake, 541 for Mecklenburg, 434 for Wilson, and 259 for Warren.³⁰⁹ Long wait times for hearings and case processing delays often extend children's stays in foster care, regardless of whether reunification with their parents might be feasible sooner.³¹⁰ The Committee also heard the personal account of a child who has been in foster care for eight years, even though parental rights were terminated long ago.³¹¹

Without timely court decisions, families remain separated unnecessarily, compounding emotional and economic hardships. Lisa Cauley, Senior Director for Child, Family, and Adult Services for the North Carolina Department of Health and Human Services (NCDHHS) pointed to the shortage of court resources and inconsistent county practices as key barriers. In many cases, hearings that are crucial to advancing a case are delayed because court dockets are overcrowded, leaving little time for social workers and attorneys to present updates or address issues promptly.³¹²

Additionally, 48 of North Carolina's 100 counties are classified as legal deserts, with fewer than one lawyer per 1,000 residents.³¹³ This unequal distribution of resources disproportionately affects indigent families, as court-appointed attorneys face overwhelming caseloads and insufficient compensation, further compromising the quality of representation.³¹⁴

Children who face frequent placements often remain in the foster care system longer than necessary due to these resource constraints. Director Cauley noted that even in cases where children are ready to return home, social workers and attorneys struggle to get timely hearings, further delaying reunification. The lack of court availability and the insufficient number of hearings means children remain in care longer, increasing the risk of additional placements and heightened trauma. The shortage of parent attorneys and GALs attorneys exacerbates the issue, highlighting the systemic resource gap that prolongs children's time in foster care and delays their return to stable family environments.³¹⁵

³⁰⁹ Durham Community Safety and Wellness Taskforce Report
https://www.durhamnc.gov/DocumentCenter/View/53062/CSWTF_Final_Report_Digital_Spread.

³¹⁰ Osborne Testimony, *7/24/24 Web Briefing*, pp. 4-7.

³¹¹ *Ibid.*, p. 6.

³¹² Cauley Testimony, *8/7/24 Web Briefing*, p. 21.

³¹³ Sotolongo Testimony, *8/7/24 Web Briefing*, p. 6.

³¹⁴ *Ibid.*

³¹⁵ Cauley Testimony, *8/7/24 Web Briefing*, p. 21.

Insufficient legal resources, combined with a provision within Rylan’s Law’s that reduces the time parents have to appeal a termination of parental rights order were noted to significantly impact case outcomes. For example, Kanisha Erwin, a parent impacted by Rylan’s Law, shared that the shortened appeal timeframe prevented her from securing legal counsel in time to challenge the termination order effectively.³¹⁶ Similarly, Gail Osborne, Executive Director at Foster Family Alliance of North Carolina highlighted that delays in processing appeals have resulted in children remaining in custody for up to four years without a permanent placement following the termination of parental rights.³¹⁷

Despite the recommendations noted below, Rylan’s Law does not address the critical need for high-quality legal representation. This oversight perpetuates due process concerns, as families without adequate legal support face prolonged separations and barriers to reunification.

Miriam Mack, Policy Director Family Defense Practice at The Bronx Defenders, and Ashley Albert, advocate at Repeal ASFA, and Wendy Sotolongo propose interdisciplinary parent defense as a solution to these systemic issues.³¹⁸ Integrating attorneys with social workers and expert witnesses enhances holistic representation and ensures families’ voices are heard in court. Wendy Sotolongo testified that this model significantly improves outcomes, expediting family reunifications while safeguarding due process. For example, her collaboration with the Division of Social Services within the NCDHHS has piloted programs where attorneys work with independent social workers to support parents more effectively.³¹⁹

Additionally, Ginger Rhoads, founder of RAISE Foster Reform Coalition, called for child-directed attorneys and an independent child advocate office to hold various county Department of Social Services (DSS) offices accountable, ensuring transparency and fairness in family court proceedings.³²⁰ Also, in addition to a GAL, “expressed wishes representation” is noted as a form of representation by the American Bar Association’s *Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings*.³²¹ Accounts of a 14 and 15-year-old indicated that their expressed wish to the representatives assigned to their case was to go back home because they were old enough to understand what they want.³²² Even for the youngest

³¹⁶ Erwin Testimony, 8/23/24 *Web Briefing*, p. 10.

³¹⁷ Osborne Testimony, 7/24/24 *Web Briefing*, p. 6.

³¹⁸ Mack Testimony, 7/12/24 *Web Briefing*, p. 19; Albert Testimony, 7/24/24 *Web Briefing*, p. 31; Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 7; O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 30.

³¹⁹ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 7.

³²⁰ Rhoads Testimony, 9/27/24 *Web Briefing*, pp. 11-4.

³²¹ https://www.americanbar.org/content/dam/aba/administrative/child_law/aba_model_act_2011.pdf

³²² Wilson Testimony, 9/27/24 *Web Briefing*, pp. 5-6 (playing audio of children during a court hearing advocating to go home).

children, there is a supplement to GAL-style “best interests” representation, known as “legal interests” representation.³²³

Other recommendations that respond to the need for legal representation include North Carolina’s only pre-petition/diversion program led by a legal aid organization called Pisgah Legal Services.³²⁴

Finding IX: Financial reimbursements from the federal government incentivize foster care over kinship placements and can delay parental reunification.

The testimonies emphasized that in North Carolina, children involved in the child welfare system are more likely to be placed in foster care than kinship placements. In 2022, 26.6 percent of children exiting care were adopted by foster families, while 22.2 percent entered legal kinship guardianship.³²⁵

Kinship care is the least harmful and dangerous placement option for children in the system. Vetted family members can provide safe, stable placement allow meaningful family relationships to remain intact.³²⁶ Current best evidence suggests that children in kinship care do better than children in traditional foster care in terms of behavioral development, mental health functioning, and placement stability.³²⁷

Gail Osborne, Executive Director at Foster Family Alliance of North Carolina, testified there can be a 1–2 year delay in placing children with relatives.³²⁸ In North Carolina, individual counties make placement decisions based on court timelines, and kinship placements may not happen until after the child is removed from the home and in foster care.³²⁹ Additionally, counties may ask relatives to sign safety plans that bar contact with parents which creates situations where families must choose between the parent and the child.³³⁰

³²³ Lisa Kelly and Alicia LeVezu, *Until the Client Speaks: Reviving the Legal-Interest Model for Preverbal Children*, 50 Fam. L. Q. 383 (2016), <https://digitalcommons.law.uw.edu/faculty-articles/317>.

³²⁴ Sotolongo Testimony, 8/7/24 *Web Briefing*, p. 23.

³²⁵ Children’s Bureau, Office for the Administration of Children and Families, Adoption and Foster Care Analysis and Reporting System, <https://www.acf.hhs.gov/cb/data-research/adoption-fostercare>.

³²⁶ Rhoads Testimony, 9/27/24 *Web Briefing*, p. 13.

³²⁷ Wexler Written Statement 2 at 27; Winokur, M., Holtan, A. and Valentine, D. (2009), Kinship Care for the Safety, Permanency, and Well-being of Children Removed from the Home for Maltreatment. Campbell Systematic Reviews, 5: 1-171. <https://doi.org/10.4073/csr.2009.1>; “Kinship Care Supports the Academic Performance of Children - Child Trends,” ChildTrends, Sep. 27, 2023, <https://www.childtrends.org/publications/kinship-care-supports-the-academic-performance-of-children>.

³²⁸ Osborne Testimony, 7/24/24 *Web Briefing*, p. 26.

³²⁹ Ibid., p. 26.

³³⁰ O’Donnell Testimony, 7/24/24 *Web Briefing*, p. 26.

The Committee heard there may be financial incentives for foster parents. According to Ryan O'Donnell, an advocate, former foster parent and creator of Your Case Plan, fostering is financially attractive because families get paid a monthly stipend.³³¹

Funding for foster parent payments come from a combination of federal, state, and county money. The North Carolina General Assembly sets the standard for reimbursement for monthly foster care maintenance payments.³³² The standard is a graduated rate based on the child's age that is adjusted periodically. In 2024, the Standard Foster Care Board Rates are:³³³

Age 0-5: \$702/month

Age 6-12: \$742/month

Age 13+: \$810/month

In North Carolina, biological parents can be billed for part of these maintenance payments. The failure to pay the cost of foster care was a consideration in 30 percent of termination of parental rights cases.³³⁴

Ginger Rhoads, founder of RAISE Foster Reform Coalition, testified to structural problems within counties' Department of Social Services (DSS) incentivizing foster care placement.³³⁵ Each county operates within a fixed budget determined by the number of children in its care.³³⁶ More children in the foster system garners more money for the county to balance its budget and grant employee raises.³³⁷ Guilford County raised the salaries for social workers from \$47,000 to \$75,000 in one year after testifying in court to keep children in care or delaying placement to maintain the budgetary status quo.³³⁸

State governments receive \$4,000-\$10,000 in federal funds for every foster child, above a baseline, that is in an adoptive placement.³³⁹ Federal reimbursement for foster care comes from an

³³¹ Ibid., p. 11.

³³² North Carolina Department of Health and Human Services. *Foster Care Funding*. Appendix 3.5 <https://policies.ncdhhs.gov/wp-content/uploads/appendix-3-5-foster-care-funding-2-24.pdf>

³³³ Ibid.

³³⁴ Albert Testimony, 7/24/24 *Web Briefing*, p. 17; O'Donnell Testimony, 7/24/24 *Web Briefing*, p. 35.

³³⁵ Rhoads Testimony, 9/27/24 *Web Briefing*, p. 13.

³³⁶ Ibid.

³³⁷ Ibid.

³³⁸ Ibid.

³³⁹ Wexler Written Statement 2 at 11.

entitlement known as Title IV-E.³⁴⁰ The federal government reimburses 50 to 83 cents for every eligible child.³⁴¹

Federal funding for family preservation is provided through Title IV-B. This reimbursement is far less and is funded by a block grant, not an entitlement.³⁴² According to Richard Wexler, Executive Director of the National Coalition for Child Protection Reform, in 2023, for every dollar the federal government spent to prevent foster care, it was projected to spend \$15 on foster care and adoption.³⁴³

According to the testimonies, foster parents reported that the North Carolina Department of Health and Human Services blocks access to therapeutic services even if the parents agree to pay.³⁴⁴ Ginger Rhoads stated this practice is a deliberate attempt to deny children care and keep them in the foster care system until parental reunification.³⁴⁵

Ryan O'Donnell reported that children with disabilities in the foster care system have their benefits "stolen" by local agencies that use the money to offset the cost-of-service delivery.³⁴⁶ Nationally, it is estimated that this totals up to \$250 million, but North Carolina would not release its numbers.³⁴⁷

Most counties' DSS lack the resources to pay kinship providers. However, North Carolina recently passed legislation that provides payments to kinship care providers who care for children in custody without having to meet the requirements of a foster care license.³⁴⁸

Senate Bill 20 authorized NCDHHS to reimburse kinship providers \$351 to \$405 per month for each child in their care, depending on the age of the child.³⁴⁹ Currently, about 25 percent of

³⁴⁰ Wexler Written Statement 2 at 11; National Coalition for Child Protection Reform, *Financial Incentives: You Get What You Pay For*, Issue Paper 12; Congressional Research Service, *Child Welfare: Purposes, Federal Programs, and Funding*, Oct. 1, 2024, <https://crsreports.congress.gov/product/pdf/IF/IF10590>.

³⁴¹ Wexler Written Statement 2 at 11; National Coalition for Child Protection Reform, *Financial Incentives: You Get What You Pay For*, Issue Paper 12.

³⁴² Wexler Written Statement 2 at 11; National Coalition for Child Protection Reform, *Financial Incentives: You Get What You Pay For*, Issue Paper 12.

³⁴³ Congressional Research Service. Emilie Stoltzfus, *Child Welfare, Purposes, Federal Programs, and Funding*, October 27, 2023; Wexler Written Statement 2 at 10.

³⁴⁴ Rhoads Testimony, 9/27/24 *Web Briefing*, p. 13.

³⁴⁵ *Ibid.*, p. 13.

³⁴⁶ O'Donnell Testimony, 7/24/24 *Web Briefing*, p. 15.

³⁴⁷ *Ibid.*

³⁴⁸ Cauley Testimony, 8/7/24 *Web Briefing*, p. 16.

³⁴⁹ N.C. Sess. Laws 2023-14 (S.B. 20).

children in foster care live with kinship providers, but with payments, the state hopes to significantly increase this option for children who cannot remain safely in their homes.³⁵⁰

Kinship payments are left to the county to pay initially and then get reimbursement from the state.³⁵¹ Gail Osborne emphasized that there are already examples of cases where this was not followed.³⁵²

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.³⁵³ In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should issue this report and its recommendation to the U.S. Department of Health and Human Services to:
 - a. Provide funding for body cameras for local CPS workers.
2. The U.S. Commission on Civil Rights should issue the following recommendations to the North Carolina General Assembly and North Carolina Governor to:

Rylan's Law

- a. Conduct an enquiry to determine: (1) why, more than seven years after it was ratified, none of the provisions of Rylan's Law have been fully and successfully implemented and; (2) what can be done to ensure that those provisions are fully and successfully implemented as quickly as possible.
- b. Pass legislation to review and amend Rylan's Law visitation restrictions.
- c. Fully fund the regional oversight model outlined by Rylan's Law.

³⁵⁰ North Carolina Department of Health and Human Services. *New Initiative Provides Payment to Support Relatives and Family Members Who Step in to Care for Children in Need*. November 17, 2023. <https://www.ncdhhs.gov/news/press-releases/2023/11/17/new-initiative-provides-payment-support-relatives-and-family-members-who-step-care-children-need>.

³⁵¹ Osborne Testimony, 7/24/24 Web Briefing, p. 26.

³⁵² Ibid., p. 26.

³⁵³ 45 C.F.R. § 703.2 (2018).

- d. Reevaluate the restrictions on appeals of termination of parental rights within Rylan's Law.

Local DSS

- e. Require local CPS employees to inform parents of their rights upon first contact, similar to Miranda rights.
- f. Require body cameras for local CPS workers consistent with best practices in ensuring privacy.
- g. End immunity for CPS workers.

Reforms

- h. Enact legislation to prohibit drug testing and screening of parents and pregnant people and their newborns without oral and written informed consent.
- i. Amend Chapter 7B, Article 11 including North Carolina Gen. Stat. 7B-1110, to require the court to address the trauma of and the steps taken to mitigate the trauma when making a determination that the removal of a child from a parent is in the child's best interest.
- j. Using the number of child deaths reported by the North Carolina Child Fatality Task Force, the number of parent caregiver homicides reported by the North Carolina Medical Examiner, and other objective data, conduct a formal inquiry to determine whether recent reductions in the number of children being investigated, substantiated, and placed in foster care have had a positive or a negative effect on child safety, health, and well-being.
- k. Change the law so that parents whose children have been taken do not have to pay CPS child support payments.

Legal Representation

- l. Amend North Carolina statutes to provide every family with abuse, neglect, and dependency cases high-quality interdisciplinary legal representation.
- m. Maintain and fully fund the Administrative Office of Courts' program the Zero to Three Program Safe Babies Courts, which increases reunification rates for parents.
- n. Improve compensation for public defenders.

Supports/Programs

- o. Fully implement a statewide Medicaid Child and Family Services Plan that provides eligibility to not only the child but caregivers, parents, and siblings.
 - p. Leverage the State Medicaid Child and Family Services Plan so it has the capacity to serve children and families prior to entering into foster care by providing in-home services.
 - q. Expand funding and invest in adequate mental health and behavioral health services.
 - r. Expand statewide the Sobriety Treatment and Response Team program.
 - s. Consider a program similar to Oklahoma’s Department of Human Services’ policy on reunification services for TANF recipients where parents receiving TANF benefits when their children are placed into foster care continue to be eligible for monthly cash assistance for up to 4 months if they are actively working to reunify.
 - t. Fund childcare vouchers which can be used for respite or babysitting services.
 - u. Proactively enact a Child Tax Credit.
 - v. Continue providing cash assistance for families working to reunify with their children.
 - w. Change the shelter hearing evidentiary standard to require a preponderance of evidence when the judge is considering a factual basis to believe the matters alleged in the petition are true.³⁵⁴
3. The U.S. Commission on Civil Rights should issue the following recommendations to the Supreme Court of North Carolina, Chief District Court Judges throughout North Carolina, and the North Carolina Administrative Office to the Court to:
- a. Improve court timelines to ensure timely hearings for Rylan's Law visitation cases.
 - b. Allow public access to court proceedings to the extent possible.
 - c. Ensure all families receive a high-quality, interdisciplinary legal defense to reduce unnecessary foster care without compromising safety.

³⁵⁴ Currently, the judge must consider whether there is “a reasonable factual basis to believe the matters alleged in the petition are true . . . [and] that there are no other reasonable means available to protect the child.” North Carolina Gen. Stat. Ann. §7B-503.

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- d. Restricting family contact should only occur when there is a demonstrated imminent risk of harm to a child.
 - e. Support a "one judge, one family" model where one consistent judge hears cases from the time that a family begins a court process, as opposed to rotating judges.
 - f. Without solely focusing on the speed of resolution, provide a meaningful opportunity to litigate a case by establishing a robust hearing process in regards to shelter placement.
4. The U.S. Commission on Civil Rights should issue the following recommendations to the North Carolina Department of Health and Human Services to:
- a. Expedite the implementation of Rylan's law to the full extent.
 - b. Expand the default visitation schedule from one hour of supervised visitation per week to weekly, multi-hour supervised visitation to increase the potential for family reunification.
 - c. Restricting family contact should only occur when there is a demonstrated imminent risk of harm to a child.
 - d. Conduct Rylan's Law visits based on individual families' needs, not agency resources.
 - e. Shorten supervision periods to minimize prolonged separation and emotional distress for children and parents.
 - f. Reevaluate the visitation provisions of Rylan's Law based on new data, explore best practices, and align visitation requirements accordingly.
 - g. Enhance CPS accountability through complete transparency, requiring counties to release more information on decisions and ensuring the full implementation of Rylan's Law data management system.
 - h. End the practice of seizing children simply because a parent uses illicit substances.
 - i. Require check-ins on adopted children who were previously in the custody of CPS at least six months after adoption even if the adoptive parents do not receive financial assistance.
 - j. Establish criteria that would require local CPS employees to inform parents of their rights upon first contact, similar to Miranda rights.

- k. Implement Rylan's Law in a way that prioritizes family preservation and support by addressing the structural inequities that continue to disproportionately impact low-income and minority families in the child welfare system.
- l. Fully fund and implement the regional support model and otherwise increase the supervision and standardization of local DSS offices.
- m. Make visitation more trauma-informed, considering adverse childhood experiences and effective by increasing the involvement of people with higher levels of expertise for the system of care.
- n. Fund and implement a comprehensive statewide data system that provides an honest and robust source of information about what is happening in the system, collectively and within individual counties.
- o. Track how many adoptions fail.

Appendices

Appendix A: Project Materials

All project materials can be found here:

<https://usccr.app.box.com/s/vwdt6b0xgdcbvxlpcnf5stqwqlbmjadcf>

Appendix B: Invited Speakers

June 27, 2024 Community Forum

- Amy Betts
- Cece Jones
- Sarah Lee
- Zalonda Woods
- Amy Palacios
- Kayleigh
- Amalia Petion
- Christina Laster
- Brittany Glover
- Christmas Smith
- Joey Pitts
- Sharrocka Pettiford
- Sheryl Smith
- Ta'LaVonne Pollard
- Yvonne Pollard
- Evelyn Bethea
- Lucy Pollard (Great Grand Mother)
- Lynne
- Lolita Allen
- Eulonda Rushing
- James Campbell
- Todd Hunter
- Kelly Stanley
- Ebone Holt
- Antoinette Hawes
- Stefanie Hux
- Lauren Andrews
- Marcella Middleton

July 12, 2024 Web Briefing - Researcher & Academic Perspectives on Civil Rights and the Child Welfare System in North Carolina

- Laura Matthews-Jolly, Assistant Professor of Law at North Carolina Central University School of Law
- Emily Putnam-Hornstein, John A. Tate Distinguished Professor for Children in Need at the School of Social Work at the University of North Carolina at Chapel Hill and faculty co-director of the Children's Data Network
- Naomi Schaefer Riley, Senior Fellow at American Enterprise Institute
- Miriam Mack, Policy Director of Family Defense Practice at The Bronx Defenders

July 24, 2024 Web Briefing - Advocates & Community Organization Perspectives on Civil Rights and the Child Welfare System in North Carolina

- Gaile Osborne, Executive Director, Foster Family Alliance of North Carolina
- Toia Potts, Organizer, Emancipate NC
- Ryan O'Donnell, Advocate, Former Foster Parent, Creator of Your Case Plan
- Ashley Albert, Advocate, Repeal ASFA
- Amanda Wallace, Founder, Operation Stop CPS
- Corye Dunn, Director of Public Policy, Disability Rights North Carolina

August 7, 2024 Web Briefing - “Policy & Governance”

- Wendy Sotolongo, Parent Defender, The Office of the Parent Defender, NC Indigent Defense Services
- Senator Lisa Grafstein, District 13, North Carolina State Senate
- Lisa Tucker Cauley, Senior Director for Child, Family, and Adult Services, North Carolina Department of Health and Human Services

August 23, 2024 Web Briefing - Policy & Governance

- Wendy Sotolongo, Parent Defender, The Office of the Parent Defender, NC Indigent Defense Services
- Senator Lisa Grafstein, District 13, North Carolina State Senate
- Lisa Tucker Cauley, Senior Director for Child, Family, and Adult Services, North Carolina Department of Health and Human Services

September 27, 2024 Web Briefing – Additional Perspectives

- Representative Donnie Loftis
- Ginger Rhoads, Founder, RAISE Foster Reform
- Ashleigh Parker; Lead Child Support Judge, and Abuse, Neglect, and Dependency Judge; Wake County

Appendix C: Committee Member Statements

Dissent Submitted by Chair Olga Morgan Wright

I, Olga Morgan Wright, Chair, North Carolina Advisory Committee to the United States Commission on Civil Rights, respectfully submit this Statement of Dissent to the Report as submitted for publication to the Commission on behalf of the North Carolina Advisory Committee.

Prior to discussing my dissent, I first give respect and honor to children lost as a result of any cause, children continuing to be impacted by the fallacies of a system established to protect and safeguard them, to parents who shared their experiences and those who did not have the opportunity, to organizations which highlighted and shared its' observations throughout the system, and to any person who felt adverse emotion based upon words of a committee member, I sincerely and personally apologize in that the opinions were solely reflective of a few and not the committee as a whole.

Historical content is paramount. If not vigorously protected, history may become subjected to a practice of revisionism. To intentionally omit relevant facts in an effort to create a new understanding of the historical relevance of the Civil Rights Act is detrimental to the very core of why the Act was needed in the first place.

For over 60 years the Commission has been charged by Congress, through its' State Advisory Committees, with publishing State Advisory Committee Reports to include a Background, Findings and Recommendations. These Reports are instrumental in informing the President, Congress, and the public - of which the Committee is charged to speak on behalf of, on important civil rights issues. I have summarized this historical background not only for those unfamiliar with the purpose and/or process of the Advisory Committee, but also for those members of the Committee who I personally believe never understood the true purpose and procedures followed by an Advisory Committee.

The lack of respect for practices long held by the Commission, in an attempt to treat our panels as tribunals, as well as the repeated displays of disrespect by some members to individuals sharing personal experiences or questioning the credentials of professional witnesses the Committee invited to present expert testimony, not favorable to Committee Members' own background or beliefs, was not demonstrative of a true interest in civil rights advocacy.

This Committee, by majority vote, following discussions throughout months of contention, showed disrespect to the very public whose interests we are charged to speak on behalf of, displayed signs of subconscious bias and revisionist persona. After

continuously declaring defiance in compromise, swayed members of the Committee to vote to delete the following from the Report described as “tendentious nonsense that will alienate the majority of readers”, all in the “spirit of submitting a unanimous Report”.

Historical content shall not be erased, and my dissent is primarily based on the following language deleted out of the Report as follows:

Testimony detailed that the racial and ethnic disparity within the child welfare system is deeply rooted in a historical pattern of systemic racial bias and punitive policies targeting marginalized communities. For instance, the 1865 First Freedmen’s Convention in North Carolina, African American leaders advocated for legal protections and family reunification for Black families torn apart by slavery. Despite these efforts, the legacy of Black Codes and other policies perpetuated harmful stereotypes of Black, Indigenous, Latine, and low-income parents as “unfit,” disguising assimilationist practices as child protection measures. ¹⁹²

Cite in Report – Pompey Written Statement at 2.

Modern child welfare policies, such as the Child Abuse Prevention and Treatment Act (CAPTA) of 1974 and the Adoption and Safe Families Act (ASFA) of 1997, were also cited as laws that reinforced this legacy by embedding carceral approaches into the child protection system. Testimony indicated that these policies have disproportionately targeted families of color. ... ¹⁹⁸

Cite in Report - Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York 2002), p. 47.

Classism and systemic inequities also shape child welfare outcomes. Families of color, particularly African American and Hispanic households, experience heightened economic insecurity, often exacerbated by wage gaps and unemployment disparities. These structural inequities contribute to the overrepresentation of children from minority families in the child welfare system.

One of the primary missions of the 1957 Civil Rights Act is to play a vital role in advancing civil rights through ***objective and comprehensive investigation, research, and analysis***. I have faithfully served on this Advisory Committee for many years. A current contributing member of this Committee has expressed their disappointment with the overall demeanor and direction of the Committee and will

not be applying for the next Charter. I have applied and will continue to apply to continue the fight for justice for those unable to speak on their on behalf. Otherwise, revisionism will win and the relevance of a Civil Rights Act will be less and less relevant.

Enemies of justice have sought to erase history so that past injustices cannot be connected to present inequities. Those who fear racial equality have always understood the importance of silencing stories that give people the hope and the means to build a better future.

This Statement of Dissent exemplifies my unwavering advocacy on behalf of and in the name of all North Carolinians I have been charged to speak on behalf of and report discrimination and unequal treatment based on race, gender, religion, national rights and disability.

Olga Morgan Wright, Chair
North Carolina Advisory Committee

Concurrence Submitted by Vice Chair A. Mercedes Restucha, Co-signed by Daniel Bowes and Catherine Read

COMMITTEE STATEMENT BY
A. MERCEDES RESTUCHA

Children in North Carolina continue to suffer the consequences of an inadequate child welfare system. In 2017, Rylan's Law was enacted in response to the tragic death of Rylan Ott, which exposed critical gaps in the state's child protective services system. At the time, critics viewed Rylan's Law as a temporary solution that would not lead to meaningful improvement. Supporting this claim, several incidents at the county level have been investigated since 2017. These inquiries uncovered an ongoing systematic lack of training, supervision, and capacity to deliver appropriate child welfare services. Despite Rylan's law, the system continues to pose a threat to child safety.

Since 2017, additional child welfare reform efforts have been introduced in the General Assembly. In the 2023-24 legislative session, Senate Bill 624 proposed more state authority in child welfare cases; this bill did not make it out of committee. In the 2025-26 legislative session, the North Carolina House of Representatives have filed House Bill 612, which, like Rylan's Law, aims to improve North Carolina's child welfare system through increased state administration of county social services departments. Given the amount of community support this piece of legislation has garnered, I hope it gains traction with our state legislators.

However, while reform efforts thus far have targeted shortcomings within North Carolina's child welfare system, there have not been significant improvements in child safety, signaling the need for novel policy change.

As the Committee report notes, in 2022, seven out of ten child welfare cases in North Carolina involved allegations of neglect rather than abuse. And as the Committee report notes, in 2020 and 2021, the state recorded only about 10 percent of child maltreatment cases involved physical or sexual abuse. In other words, the vast majority of system-involved children suffer from "neglect." Neglect is a term that is often synonymous with poverty and reflects classism and systemic inequities that shape child welfare outcomes. All efforts to redesign the current system should address these root causes or risk perpetuating harmful dynamics. This is why I feel compelled to issue this Statement to include recommendations that address anti-poverty measures and that adopt a pro-family approach to food, housing, and health insurance support.

Systemic Racism

In an attempt to arrive at a unanimous report, the Committee decided to not include detailed language regarding systemic racism and its impact on children and families today. Ultimately, we were unsuccessful at arriving at unanimous support of the report, and for good reason. Because of the overwhelming public comment we received on this matter, I am including this language here:

Testimony detailed the racial and ethnic disparity that is within the child welfare system, and which is deeply rooted in a historical pattern of systemic racial bias and punitive policies targeting marginalized communities. For instance, the 1865 First Freedmen's Convention in North Carolina, African American leaders advocated for legal protections and family reunification for Black families torn apart by slavery. Despite these efforts, the legacy of Black Codes and other policies perpetuated harmful stereotypes of Black, Indigenous, Latine, and low-income parents as "unfit," disguising assimilationist practices as child protection measures.

Modern child welfare policies, such as the Child Abuse Prevention and Treatment Act (CAPTA) of 1974 and the Adoption and Safe Families Act (ASFA) of 1997, were also cited as laws that reinforced this legacy by embedding carceral approaches into the child protection system. Testimony indicated that these policies have disproportionately targeted families of color.

Poverty & Classism

Similarly, some members of the Committee were reluctant to delve into the role of poverty and its impact on individuals impacted by the child welfare system, arguing that it was outside the scope of this report. However, as I mentioned above, an overwhelming majority of children in the child welfare system, which many refer to as the family policing system, are in the system due to allegations of neglect. The Committee heard many panelists support the notion that poverty is often misconstrued as neglect.

Because it did not receive a majority support, I have chosen to include the following language in this Statement:

Additional testimony pointed to broader systemic issues that likely compound the disproportionate representation of low income and protected groups within the child welfare system. The United States lags behind other nations in providing economic support to families, including paid parental leave, affordable childcare, and accessible public benefits.

Classism and systemic inequities also shape child welfare outcomes. Families of color, particularly African American and Hispanic households, experience heightened economic insecurity, often exacerbated by wage gaps and unemployment disparities. These structural inequities contribute to the overrepresentation of children from minority families in the child welfare system.

This is also why I have chosen to include a host of recommendations related to addressing the role of poverty in our state.

1. The U.S. Commission on Civil Rights should issue this report and its recommendation to the U.S. Congress to:

- a. Provide federal medical reimbursement for doulas and midwives' services, including for the post-partum period. As the Committee report overview mentions, the North Carolina's Office of the Chief Medical Examiner reported that the number of parent caregiver homicides, within the zero-to-11-month age group, has nearly tripled from 2021 to 2022.
- b. As it relates to children with disabilities, encourage the use of anti-poverty measures and community-based supports as an alternative to institutionalizing children.

2. The U.S. Commission on Civil Rights should issue the following recommendations to the North Carolina General Assembly and North Carolina Governor to:

- a. Narrow the statutory definition of "neglect" to ensure it does not conflate poverty with neglect and otherwise prioritizes family preservation when in the best interest of the child.
- b. As it relates to children with disabilities, encourage the use of anti-poverty measures and community-based supports as an alternative to institutionalizing children.
- c. Pass the provisions of Senate Bill 625 to allow children to maintain ties with their families after adoption.
- d. Amend statute NC § 7B-311 to require judicial review prior to placement on a responsible persons list.
- e. Fund and support holistic community centers, like Together with Families, in Marietta, Georgia.
- f. Whenever an allegation of neglect or abuse would be negated by providing the family with cash assistance, the state should make that provision.
- g. Invest in childcare in historically marginalized communities.
- h. Fund childcare vouchers for respite or babysitting services.
- i. Fund the Family Connects International newborn nurse home visiting program for every newborn in the state. Again, noting the increase in parent-caregiver homicides within the zero-to-11-month age group.
- j. Fund free-standing birthing centers and provide home birthing options.

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- k. Enact a requirement for the State to affirmatively prove to the Court that it has provided material resources before removing a child from the home due to allegations of neglect.
 - l. Ensure compliance with federal recommendations regarding the use of TANF funds for the child welfare system.
 - m. Increase the state minimum wage. The Committee found in its report that a \$1/hour increase in the minimum wage correlates with a 9.6 percent decline in neglect reports.
 - n. Reduce the administrative burden for SNAP and other public assistance programs by permitting longer recertification intervals and simplifying online application materials and income reporting.
 - o. Increase the availability of food stores in zip codes that accept SNAP benefits.
 - p. Provide mechanisms for support to the family if a parent cannot meet the TANF work requirements.
 - q. Invest funds from the child welfare system into housing vouchers and increase housing supports to address the high rate of foster care placements in North Carolina that occur due to inadequate housing. The Committee found in its report that housing vouchers for homeless families reduce foster care placements by over 50 percent.
 - r. Adopt the basic features of "pro-family policy," including providing routine financial supports to families with children, paid family leave, ensuring families can obtain developmentally enriching childcare and prekindergarten, and laws that help workers reconcile work with family. Guarantee sufficient access to low-income housing so that parents can have a decent home to raise children, and access to mental health services and drug treatment programs to help ensure that parents can give children the parenting they need to do their best. Such a system of family supports would significantly raise the wellbeing of children up and down the income ladder, but particularly those from families at the bottom who do worst in this system.

3. The U.S. Commission on Civil Rights should issue the following recommendations to the Supreme Court of North Carolina, Chief District Court Judges throughout North Carolina, and the North Carolina Administrative Office to the Court to:

- a. Provide children with lawyers who advocate for their expressed wishes to provide a balanced and thorough representation of all perspectives that align with the child's best interests.
- b. Ensure families have post-petition representation and representation throughout any appeals.
- c. Conduct Rylan's Law visits based on individual families' needs, not agency resources.
- d. Require check-ins on adopted children at least six months after adoption even if foster parents do not receive financial assistance.
- e. Require local CPS employees to inform parents of their rights upon first contact, similar to Miranda rights.
- f. Contract with community-based non-profit agencies to provide safety-focused, cultural competency, trauma-informed, family-centered, antiracism and implicit bias training.
- g. Train state actors on identifying the difference between poverty and neglect, and on resources available to provide to families experiencing poverty, negating the need to remove children from their families.
- h. Conduct a comprehensive training needs assessment and catalog of existing training at the Central and county level. By doing so, this should guide training development. This should include external training resources and training staff should develop detailed workforce development plans.
- i. Central and regional training teams should increase the number of training deliveries available to county staff, especially for those courses that must be completed as part of pre-service instruction.
- j. Improve training around mandated reporting and study the impact of the recent change to the mandated reporting law. The Committee included a flowchart³⁵⁵ provided by NCDHHS showing that approximately 36% of reports of abuse and neglect do not result in a CPS investigation.

³⁵⁵ See page 9, Figure 1.

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- k. Require all judges sitting over abuse, neglect, and dependency cases to obtain judicial juvenile certification.
 - l. Create a working group to identify data elements in forms that are used, where common errors occur, why data inconsistency exists between the state and the counties, and determine how these inconsistencies can be reduced and data quality will be increased with full conversion to PATH NC, or if enhanced protocols or training would be beneficial to improve.
 - m. Make investments in existing qualitative case review processes since they are so essential to monitoring and supporting efforts towards improving case practice and outcomes for children and families.
 - n. Make sure data that is being gathered has mechanisms in place to check against historical data that is deeply tainted by racism and classism. State actors should be careful not to assume that things are working because the data looks one way, when accounts by directly impacted families makes it clear that something's going awry.
 - o. Use Title IV 39 of Social Security funds to help purchase technology to both improve the child welfare system, but also to improve how courts are run, for both court improvement programs and the quality of representation for families.
 - p. Recommend that policy be changed to say poverty shall not be a reason to remove children and training by community-led organizations on efforts to distinguish poverty from neglect.
 - q. Provide families accused of neglect with a monthly stipend equal to the amount that would be provided to a foster family if the child were removed.
 - r. Use endowments to help start programs for pre-petition actions, interdisciplinary legal representation, and identify and apply for funding to sustain these programs.

North Carolina Advisory Committee to the United States Commission on Civil Rights



U.S. Commission on Civil Rights Contact

USCCR Contact	Regional Programs Unit U.S. Commission on Civil Rights 230 S. Dearborn, Suite 2120 Chicago IL, 60604 (312) 353-8311
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