

9th Annual Report to the Colorado Legislature

Implementation of HB 94-1178

Expedited Permanency Planning

December 15, 2003

Basis for Report: 19-1-102. Legislative Declaration. (1.6) “THE GENERAL ASSEMBLY RECOGNIZES THE NUMEROUS STUDIES ESTABLISHING THAT CHILDREN UNDERGO A CRITICAL BONDING AND ATTACHMENT PROCESS PRIOR TO THE TIME THEY REACH SIX YEARS OF AGE. SUCH STUDIES FURTHER DISCLOSE THAT A CHILD WHO HAS NOT BONDED WITH A PRIMARY ADULT DURING THIS CRITICAL STAGE WILL SUFFER SIGNIFICANT EMOTIONAL DAMAGE, WHICH FREQUENTLY LEADS TO CHRONIC PSYCHOLOGICAL PROBLEMS AND ANTISOCIAL BEHAVIOR WHEN THE CHILD REACHES ADOLESCENCE AND ADULTHOOD. ACCORDINGLY THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS APPROPRIATE TO PROVIDE FOR AN EXPEDITED PLACEMENT PROCEDURE TO ENSURE THAT CHILDREN UNDER THE AGE OF SIX YEARS WHO HAVE BEEN REMOVED FROM THEIR HOMES ARE PLACED IN PERMANENT HOMES AS EXPEDITIOUSLY AS POSSIBLE.”

On or before December 31, 1995 and each December 31 thereafter through and including December 31, 2003, the Department of Human Services in consultation with the Judicial Department shall submit a written report to the Colorado Legislature regarding:

- Progress towards statewide implementation
- Program effectiveness
- Evaluation as to whether out-of-home placement costs have been avoided.

The final report submitted on or before December 31, 2003, shall also include any recommendations concerning the continuation of the expedited procedures, recommendations regarding any legislative modifications, including, if necessary, any recommendations for extensions of time required for statewide implementation, and any other information deemed necessary and appropriate.

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EXECUTIVE SUMMARY

Progress towards statewide implementation

It has been more than two years since Statewide implementation of Expedited Permanency Planning (EPP) occurred. All counties and their respective courts are designated to function under the EPP requirements. This initiative continues to provide impetus for Colorado to transform its approach to permanency for children under the age of six, as required by statute and for older children as well. The approaches and timelines are commonly used for children and youth of all ages, thereby surpassing statutory requirements, which primarily focus on the permanency needs of young children.

This report is unique among those that have been submitted for the past eight years in that the Colorado Revised Statutes mandate at 19-1-123 (b) that the final report submitted on or before December 31, 2003, shall, in addition to the factors about which reporting has occurred each year, also include any recommendations concerning the continuation of the expedited procedures, recommendations regarding any legislative modifications, including, if necessary, any recommendations for extensions of time required for statewide implementation, and any other information deemed necessary and appropriate.

In a later section of this report, "Challenges," the issues which have hindered full implementation of EPP and some concerns that have arisen during the years of implementation regarding some unintended consequences of EPP are described. In another later section of this report, "Recommendations," some suggestions are made for ways in which these concerns may effectively be addressed.

Program Effectiveness

Children continue to achieve permanency in shorter time frames through the EPP initiative than prior to its implementation. This year, of the 1149 children reported who should have achieved a permanent placement, 81.6 percent or 938 children were residing in their permanent homes within one year of removal. Counties report anecdotally that many of the remaining 211 children were placed within a matter of a few months of the year's requirement and believe that although the letter of the law was not met for these children, the spirit of the law is definitely being met as these children also achieved early permanency. The courts, as a whole, continue to comply with the requirements of EPP. The courts improved somewhat in timely disposition hearing, and there has been dramatic improvement with timely permanency hearings. There was a reduction of one percent in timely statewide adjudications from last year, from 93 percent to 92 percent compliance. Compliance with Treatment Plan hearings increased statewide from 92 percent to 94 percent. Timely Permanency Hearings improved from 75 percent to 85 percent. Individual districts have also improved dramatically - raising their compliance rates by more than 40 percent.

Out of Home Cost Avoidance

In years prior to 2000, it was reported that out-of-home cost avoidance for EPP children appeared to increase over time. These Annual Reports described that from the inception of Jefferson and Boulder Counties' EPP Programs in 1994 and 1995 respectively, through June 30, 1999; the average out of home cost avoidance for EPP children was \$2014 per child. The EPP children in Jefferson and Boulder counties have been followed over time and the 2001 Annual Report indicated that when contrasted with comparable children who entered out of home care the year prior to when these two counties began to function under the EPP requirements, the gap widens.

Bringing this study's findings up to the current year, for the **seven** children in **Boulder County's EPP program** who received services in State Fiscal Year (SFY) 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$3,133, a drop of \$716 per child from last year's SFY 2002 data. For the **two** children in the comparison group who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost was \$6,239, an increase of \$2,253 from last year's SFY 2002 data. Although last year, there was virtually no difference in the out-of-home placement cost for EPP and non-EPP children during SFY 2002 at a **\$137 cost savings per child in the EPP program, this year's data shows that there is a \$3,106 cost savings per EPP child in Boulder County. This exceeds the average cost savings reported in any year since these statistics have been tracked.** Because we have only these few figures about these children and do not have other case information about them, it is open to speculation about why this dramatic cost savings is shown this year for the EPP population. It is possible that as these children have aged, the original hope regarding EPP's potential to save money over time is coming true. Older children and youth tend to have much more expensive placements than young children. By the current reporting year, the children followed would be anywhere between 9 and 14 years of age.

For the **two** children in **Jefferson County's EPP program** who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$4,081, a drop of \$365 from last year's SFY 2002 data. For the four children in Jefferson's comparison group who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$5,347, a drop of \$2,140 from last year's SFY 2002 data, resulting in a **cost savings of \$1,266 per child in the EPP program for this reporting year, a considerably smaller cost savings than the \$3,041 reported last year for EPP children in Jefferson County.**

The small number of children left to be studied in the Boulder and Jefferson study groups do not represent a statistically significant sample. The combined number of EPP and Comparison Group children in Boulder and Jefferson Counties shrank from 20 last year to only 15 this year. Therefore, **generalizations to other populations should not be made from these figures.**

It has been estimated that the intensive, accessible up-front services needed for EPP cost approximately \$5,000 per family. Until this year, the funding requests to the legislature were **based on a plan with incremental decreases over a five-year span** until the new funding

would be eliminated. During this reporting year, EPP funding was reduced with the same incremental decreases over a **four-year span**. Thus, many counties that had anticipated EPP funding during SFY 03-04 and/or SFY 04-05 no longer receive such funds.

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Statewide Implementation

HB94-1178 required that Expedited Permanency Planning be implemented on a county-by-county basis beginning July 1, 1994. The implementation was to be phased in over a period of ten years based on a schedule established by the Department of Human Services in consultation with the Judicial Department. Statewide implementation was to be achieved by June 30, 2004. The Colorado Legislature funded the program for full statewide implementation during SFY 2000-2001 thereby allowing for full statewide implementation by 2001, three years earlier than required.

The Table below and on the following page illustrates the designation dates by Judicial District and reflects the county departments included within the districts.

<i>Judicial District</i>	<i>County</i>	<i>Start Date</i>
1 st	Jefferson	October 1, 1994
	Gilpin	September 1, 2000
2 nd	Denver	November 1, 2000
3 rd	Huerfano	September 1, 2000
	Las Animas	September 1, 2000
4 th	El Paso	February 15, 1996
	Teller	September 1, 2000
5 th	Clear Creek	September 1, 2000
	Eagle	September 1, 2000
	Summit	September 1, 2000
	Lake	September 1, 2000
6 th	La Plata / San Juan	January 1, 1997
	Archuleta	March 1, 2001
7 th	Delta	September 1, 2000
	Gunnison	September 1, 2000
	Hinsdale	September 1, 2000
	Montrose	September 1, 2000
	San Miguel	September 1, 2000
	Telluride	September 1, 2000
8 th	Larimer	February 1, 1998
	Jackson	January 1, 1999
9 th	Garfield	September 1, 2000
	Pitkin	September 1, 2000
	Rio Blanco	September 1, 2000
10 th	Pueblo	March 1, 1999
11 th	Chaffee	January 1, 1998

<i>Judicial District</i>	<i>County</i>	<i>Start Date</i>
	Custer	January 1, 1998
	Fremont	January 1, 1998
	Park	January 1, 1998
12 th	Alamosa	January 1, 1998
	Conejos	September 1, 1998
	Costilla	September 1, 1998
	Rio Grande / Mineral	September 1, 1988
	Saguache	September 1, 1998
13 th	Kit Carson	December 1, 1998
	Logan	December 1, 1998
	Morgan	December 1, 1998
	Washington	December 1, 1998
	Yuma	December 1, 1998
	Phillips	December 1, 1998
	Sedgwick	December 1, 1998
14 th	Routt	January 1, 1999
	Moffatt	January 1, 1999
	Grand	January 1, 1999
15 th	Baca	September 1, 2000
	Cheyenne	September 1, 2000
	Kiowa	September 1, 2000
	Prowers	September 1, 2000
16 th	Bent	September 1, 2000
	Crowley	September 1, 2000
	Otero	September 1, 2000
17 th	Adams	March 1, 2001
	Broomfield	November 15, 2001
18 th	Arapahoe	December 1, 1998
	Douglas	December 1, 1998
	Elbert	December 1, 1998
	Lincoln*	September 1, 2000
19 th	Weld	February 1, 1998
20 th	Boulder	July 17, 1995
21 st	Mesa	September 1, 1997
22 nd	Dolores	September 1, 2000
	Montezuma	September 1, 2000

*Lincoln is served by the 15th Judicial District

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In a later section of this report, “Challenges,” the issues which have hindered full implementation of EPP and some concerns that have arisen during the years of implementation regarding some unintended consequences of EPP are described. In another later section of this report, “Recommendations,” some suggestions are made for ways in which these concerns may effectively be addressed.

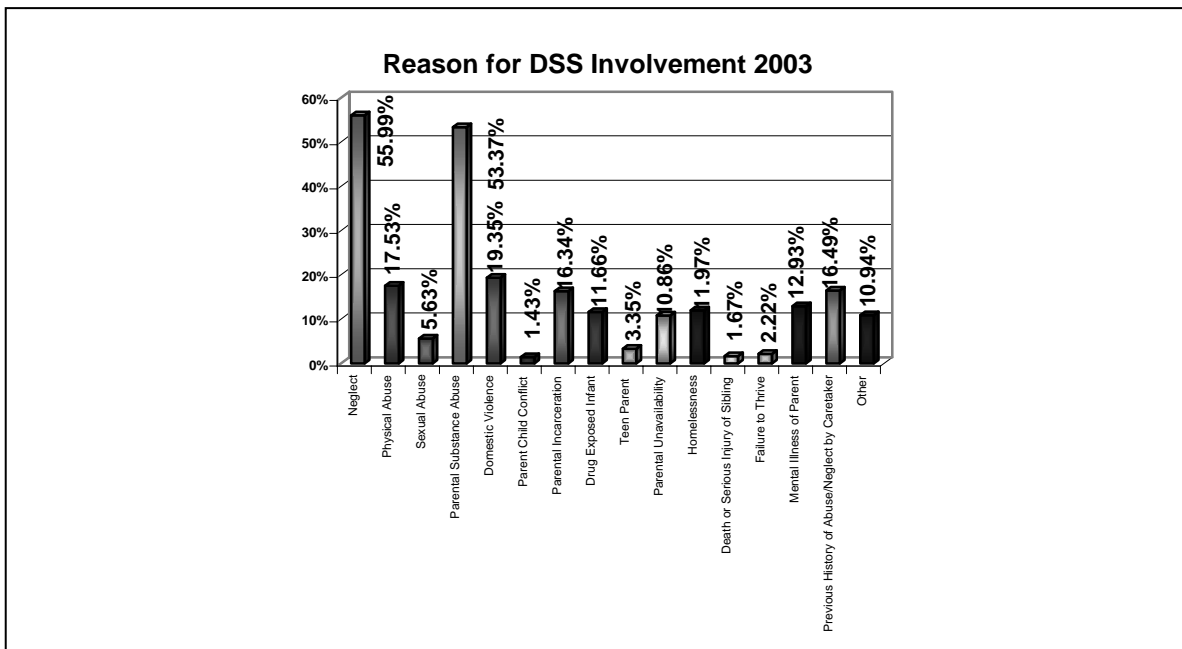
Program Effectiveness

Number of families and children served

In SFY 2003, county departments reported that 1,261 children from 845 families entered the program. For each family that came into the system, there was an average of 1.49 children. A conservative estimate is that these figures represent an increase from last year of 73 children and 98 families served through the EPP initiative. This translates to a six percent increase from last year in the number of children served and a 12 percent increase in the number of families served this year. To place these increases in perspective, they represent a **37 percent increase over the last two years in the number of new children served and a 42 percent increase in the number of new families served.** These figures are noted to be conservative estimates because it is believed that some county departments of human/social services underreported the numbers of children and families served during SFY 2002 and 2003.

Reasons for DSS involvement

We examined the reasons why the county departments became involved with the children and their families and the following chart reflects the reported reasons by the percentage of times they occurred within this population. It is recognized that most cases have overlapping reasons for involvement.



Child neglect was identified in 56 percent of the cases. This is a drop of about four percent from the last two years in this primary reason for DSS involvement. Child neglect continues to be the foremost reason for DSS involvement for the young children in the Expedited Permanency Planning initiative.

Parental substance abuse was reported as the primary reason for DSS involvement in 53 percent of the cases, and is the second most commonly identified reason. This is a four- percent increase over last year, and a six- percent increase over the past two years.

All other reasons fall behind child neglect and parental substance abuse. When compared to last year's data there is a three percent decrease to 18 percent in the number of EPP children and families impacted by physical abuse. Domestic violence dropped by almost five percent from last year to 19.35 percent this year. Parental mental illness remained about the same as last year at almost 13 percent. Previous history of abuse/neglect by caretaker remained about the same as last year at almost 13 percent. It is thought that numerous issues such as substance abuse, domestic violence, mental illness and chronic issues are not identified until later in the case, while caseworkers are required to report information about new cases within 30 days of case opening. With the high rate of caseworker turnover it is also possible that inexperienced caseworkers take longer to identify these important factors when working with new families. Sexual abuse remained about the same as last year at six percent. Infant drug exposure increased by four percent from last year to 11.6 percent this year. Homelessness decreased from last year by one percent to 11.97 percent. Death or serious injury of a sibling rose by .7 percent from last year to 1.67 percent this year. Because of the severe nature of this category, the one percent rise this year is noteworthy. A continued decrease in teen parenting as the reason for department involvement is also noteworthy. This has decreased for a third year in a row. It has decreased from last year by .15 percent to being cited as a reason for EPP involvement only 3.25 percent of the time this year. After three years of continued decrease as a reason for DSS involvement, this year parental unavailability rose by almost three percent to just under 11 percent. Parental incarceration has remained fairly stable over the past 3 years, with about a .26 percent decrease from last year to 16.34 percent this year.

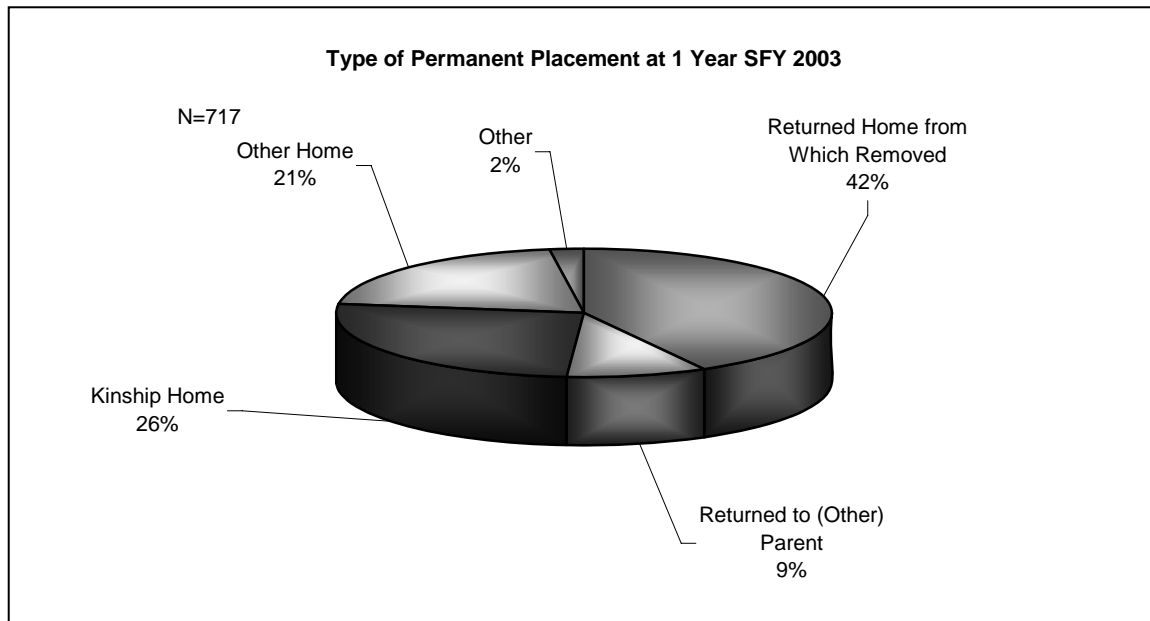
Achievement of Permanency within one year of removal

The rate of children placed in permanent homes within one year of removal for 938 children under the age of six and their siblings in the EPP Program is 81.64 percent this year as compared to 82.9 percent reported last year. The rate of 81.6 percent is a marked increase in the success rate from only three years ago when counties reported that 72.5 percent of the children achieved a permanent placement within one year of removal from their homes. Given the severe budget cuts that departments of human/social services and local judicial districts around the state experienced during the past fiscal year, **the slight drop of only 1.26% from last year's permanency rate at one year speaks to Colorado's high commitment level to early permanency for young children.**

County department staff communicate anecdotally that many of the remaining 18.4 percent of EPP children are being placed shortly after a year from removal and thus success in achieving early permanency is also occurring for this population. This could informally be interpreted to mean that almost all children are now achieving permanency within the 18 months time frame that the

Adoption and Safe Families Act requires for a permanent plan for children of all ages. Although this is very likely to be true, there is no data collected to support this. This anecdotal reporting is, however, consistent with a study done by Patricia Schene, Ph.D. as reported in “An Evaluation of Expedited Permanency Planning in Colorado” written by Dr. Schene in December 1998.

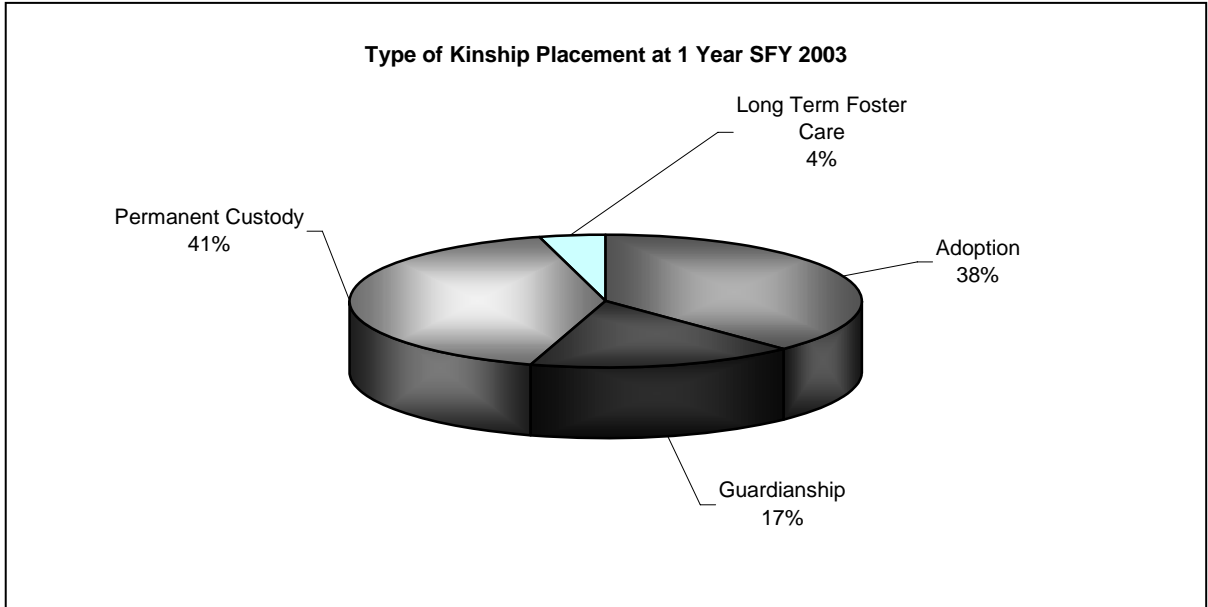
What are the permanent placement types for children who achieved a permanent placement within one year?



It is noteworthy that 77 percent of the 522 children on whom we have **type of placement** data were residing permanently within their family systems. Although the number of children on whom we have this type of data has fluctuated over the past few years, the rate at which they remained within their family systems has remained similar, rising by four percent this year over 73 percent during the past two years. The number of children who are returned to the parent from whom they are removed has also fluctuated over the past few years, rising this year by almost six percent over last year’s 36 percent to 41.85 percent this year, but still a decrease from the 43 percent who were returned two years ago. The number of children who returned to the other parent remained almost the same as last year’s 10 percent at 9.37 percent this year. Kinship placements remained fairly stable with a slight decrease to 25.88 percent this year over last year’s 27 percent. However, this represents a rise of almost seven- percent over the past two years. **The rate of placement within the family system has risen steadily each year and by almost 18 percent over the past five years** (60 percent in SFY 97-8 to 65 percent in SFY 98-99, to 68 percent in FY99-00, to 73 percent last year and **77 percent this year**). This positive trend supports the desired outcome that the continuity of family relationships and connections are preserved for children. It is consistent with federal law, with Colorado statutes that require that relatives be given consideration for placement, and with the Colorado Department of Human Services philosophy on permanency planning. The remaining 23 percent of the children were

permanently residing with families recruited outside of the family of origin.

How is permanency achieved in kinship care?



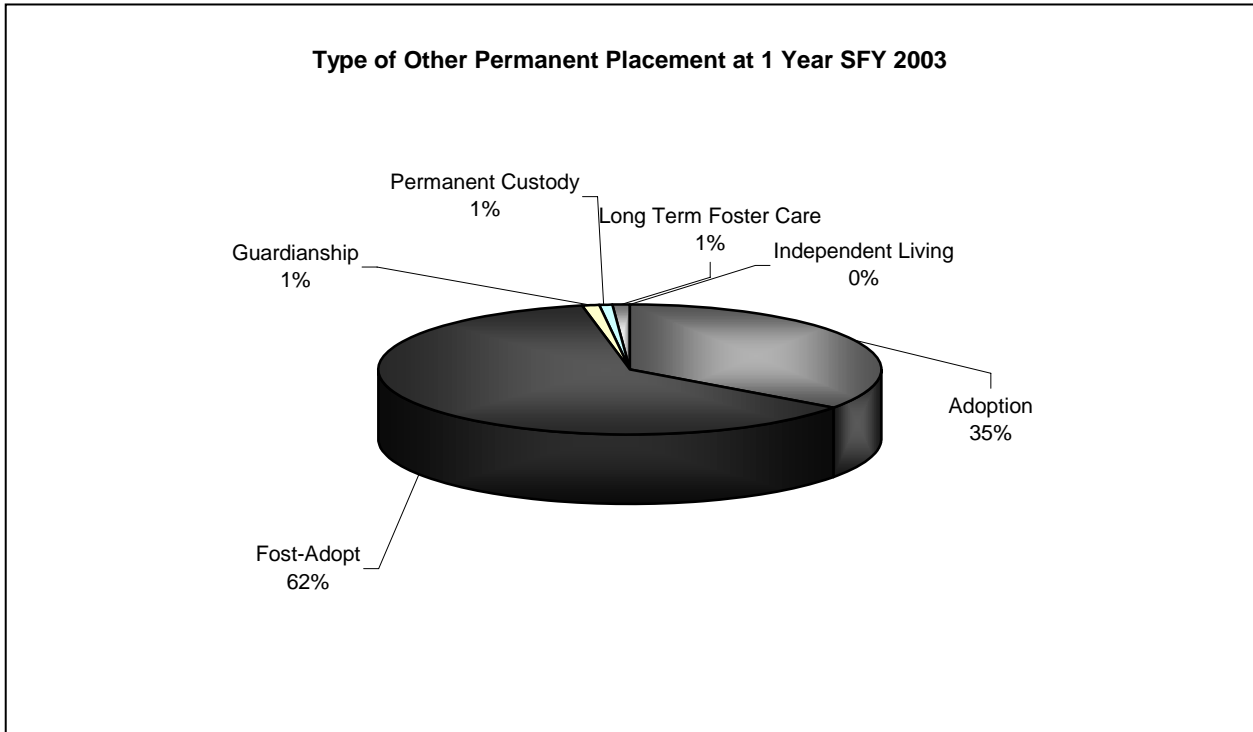
The rates for the type of legal permanency identified for the 243 children in kinship families indicate that almost 38 percent chose adoption, 41 percent chose permanent custody, almost 17 percent chose guardianship and slightly more than four percent remained in long term foster care.

Compared to last year, **there is a significant decrease of 24 percent this year from last year’s all time high of 62 percent of kin who chose adoption as their legally permanent plan.** However, this represents only a “leveling off” of kin adopting, as last year’s high percentage in this category represented an unprecedented increase of 22 percent in the number of kinship families choosing adoption over the previous year. Thus, Colorado stands about where it was two years ago regarding kinship adoptions. Not surprisingly, each of the other categories of legal permanent plan increased somewhat over last year. Guardianship increased by 10 percent. Permanent Custody rose by 13 percent. Long term foster care increased by about one percent.

The increase in kinship adoption last year was at least partially attributed to the higher rate of financial support that these placements are likely to receive through eligibility for subsidized adoption if the child has special needs. When granted legal custody the kinship caregivers often apply for a Colorado Works/ TANF/ child-only grant to receive some minimal financial assistance and Medicaid for the child. Some kinship caregivers choose to forego the increased financial and legal benefits of adoption so as not to legally and completely sever the parent-child relationship. In many instances grandparents hold onto the hope that their adult children will

eventually recover from addictions and/or be released from prison and will be able at a future date to safely care for their children. These grandparents are therefore reluctant to adopt their grandchildren.

How is permanency achieved outside of the family system?



Of the 195 children residing in permanent placements outside of the family system adoption is the plan for almost 97 percent of the children. Almost thirty-five percent were already residing with adoptive families and over 62 percent were residing on a pre-adoptive basis with foster families who had committed to adoption. Only one percent of the children were residing with caregivers who planned to assume permanent custody, another one percent of these caregivers planned to assume guardianship and yet another one percent intended to maintain the children in long term foster care. None of these children had “independent living” as a planned goal.

The expanded practice of concurrent planning results in early placements in recruited permanency-foster families for children who are unable to remain within their kinship circle. Placement may occur immediately upon removal or more likely within weeks or months following the case having been opened. The adoptions of many of these children are finalized within one year of removal from their families. Through the use of non-adversarial processes such as Settlement Conferences and Dependency and Neglect Mediation, localities report a decrease in trials for termination of parental rights with some parents deciding not to contest the motion. This paves the way for earlier adoptions and sometimes results in an agreement with the potential adoptive parents to maintain some openness in the adoption.

What are the reasons for children not achieving permanency within one year?

Of the 1149 children who should have achieved a permanent plan under EPP standards, there were 211 children in SFY 2003 who did not achieve permanency within 1 year. The chart on page 14 illustrates the reasons for this delay in placement. For a little more than 16 percent of the children there was a judicial determination that reasonable efforts were being made to find a placement for the child and no appropriate home was available. Another three percent had judicial findings that, because of the child's physical health or mental health needs, there was no probable successful placement at the current time. The permanent placement disrupted for another nine percent of the children. This occurs when, for whatever reason, the child's placement does not go well and the placement is no longer appropriate or available for the child. Delays caused by the Interstate Compact on the Placement of Children contributed to 8.66 percent of the children not being placed in a permanent home in a year. These delays may be caused by systemic problems such as delays in home studies being completed by the receiving state. Slightly more than one percent of these children had delays in permanency because, applying the Indian Child Welfare Act, the intervention of a child's tribe (or waiting for that intervention) placed burdens on the one-year requirement.

The most common reasons given for children not being placed in their permanent home at one year fell into the category of "other." Almost 62 percent fell into this category.

Caseworker comments regarding "other" reasons for permanency not being achieved within one year included reference to children for whom termination hearings were set, but had not yet occurred. Although this is given as a reason, it is to be noted that, regardless of whether there is a termination hearing, the child should be in a permanent placement such as a potential adoptive home by one year. Although this is given as a reason, it is inappropriate to do so as the statute requires that the child be placed in a permanent home and does not require that termination of parental rights has occurred.

There is a spectrum of "other" reasons cited by caseworkers. They include

- The child being on the run,
- The child needing treatment for emotional behavioral issues prior to attempting a permanent home,
- The child stating she will not consent to adoption,
- The county administrative or Administrative Review recommendation that it is worth giving the case a little more time due to the specific family situation,
- A court decision that it is worth giving the case a little more time due to the specific family situation,
- Paternity issues having delayed the case,
- Expectations that the child will achieve permanency slightly later than one year,
- Six children died before being placed into permanent homes.

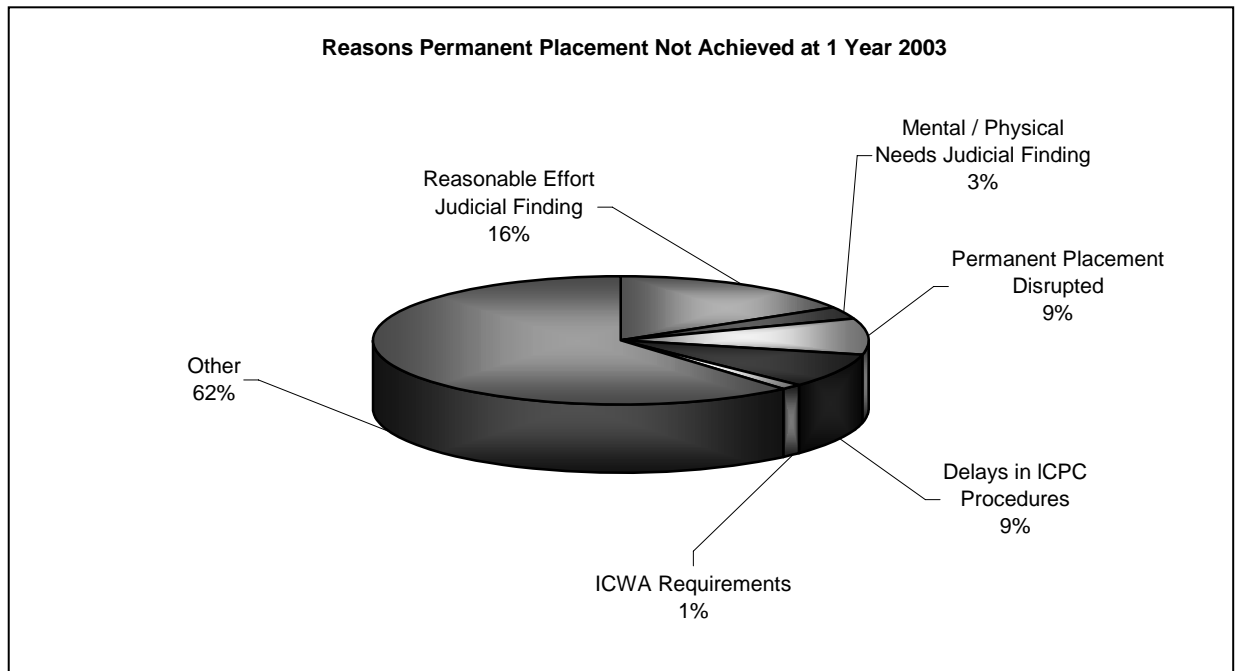
None of these deaths appear to have involved abuse or neglect by substitute caretakers or by parents following intervention by the county department and the court. For instance, one child rejected a heart transplant. Two babies died of SIDS. Two others died while in substitute care of complications from the non-accidental trauma at the hands of their parents that had brought them into care in the first place. One child died in the care of his mother prior to the county

opening a case. His death was the reason the case was opened due to the need for permanency planning for a sibling.

Other specific reasons include

- Contested hearings,
- Court extensions,
- Delays in court proceedings,
- Incarcerated parents, and extra time being given to a parent to work on his/her treatment plan.

There are no real trends in this category, and each reason is different from the other.



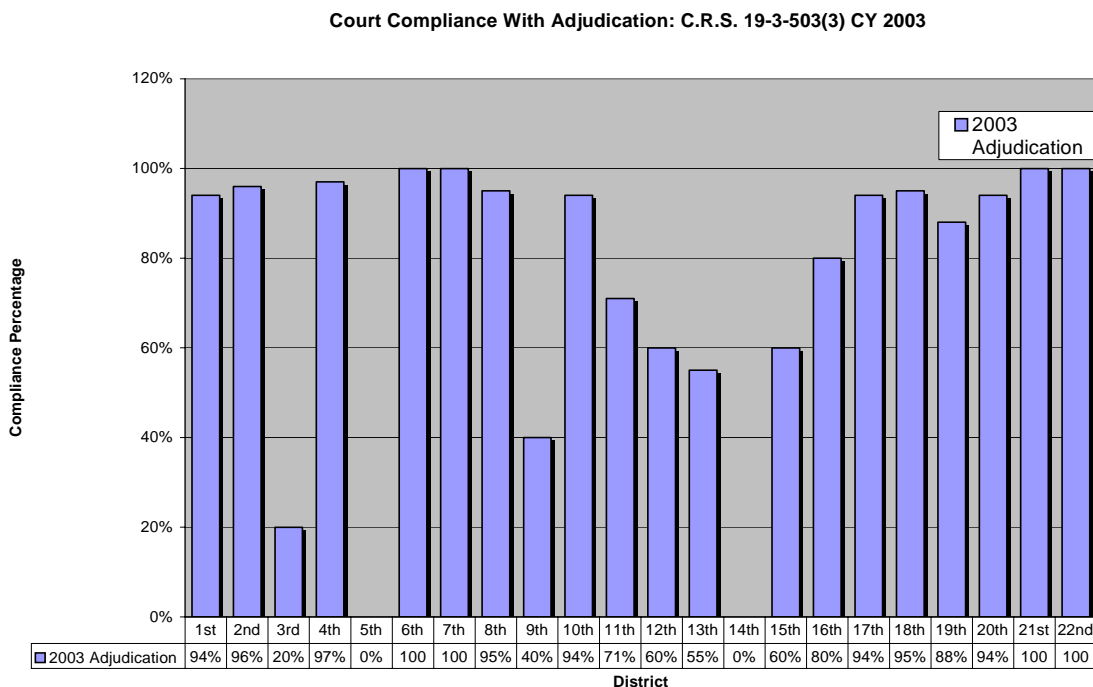
How are the Courts Doing Meeting the Requirements of EPP?

Evidenced by the compliance rates shown in individual judicial districts, the courts continue to be active in successfully implementing EPP. EPP has now become such an entrenched part of the judicial culture, that compliance with its mandates is a normal course of everyday business. In fact, in some judicial districts, practitioners, and judicial officers alike, have known only one way of doing business – that being expedited permanency planning. All involved with these cases realize the importance of meeting expedited time frames, as EPP forces the entire system: judicial officers, caseworkers, court appointed special advocates, attorneys, family court facilitators, and parents to be more accountable and responsible for their actions. The expedited nature of the proceedings is tempered by the fact there is still flexibility in the system to allow for creative thinking. Despite the fact that there are time frames that need to be followed, there is still enough room in the system to accommodate cases that may need a little more time.

On a statewide basis, there is significant compliance by the courts with the requirements of EPP,

as well as significant improvement with EPP compliance. There is a slight decrease in the compliance with timely adjudications, though this one percent decrease from last year's percentage is no significant. The courts have improved timely compliance with permanency hearings 10 percentage points over last year – culminating a three-year improvement trend since CY 2000. However, they are still the hearings with the lowest compliance rates.

In Calendar Year (CY) 2003¹, the court adjudicated children within the required time frame of C.R.S. § 19-3-505(3) 92 percent of the time, a decrease of one percent from last year.² This figure represents the average of all the districts, and has held fairly consistent over the past three years at over 90 percent.³ As for the individual districts, below is the chart reflecting the current compliance rates relating for adjudication.⁴



The chart above indicates that many districts are still doing a remarkable job meeting the time frame for adjudication. Special note should be given to the fact that twelve of the twenty-two districts have over a 90 percent compliance rate for adjudication. Of those, four have a 100 percent compliance rate. Of some concern is the fact that seven districts have a compliance rate

¹ Analysis of courts' compliance rates in the past two reports is based on calendar year figures. For the purpose of consistency, calendar year 2003 figures are used in this report as well. These figures are current up to October 31, 2003.

² C.R.S. § 19-3-505(3) requires that the child be adjudicated dependant or neglected within 60 days of service of the petition in dependency and neglect.

³ In 2001 there was a compliance rate of 91 percent. This is compared to a 93 percent compliance rate in 2002 and the 92 percent compliance rate of 2003.

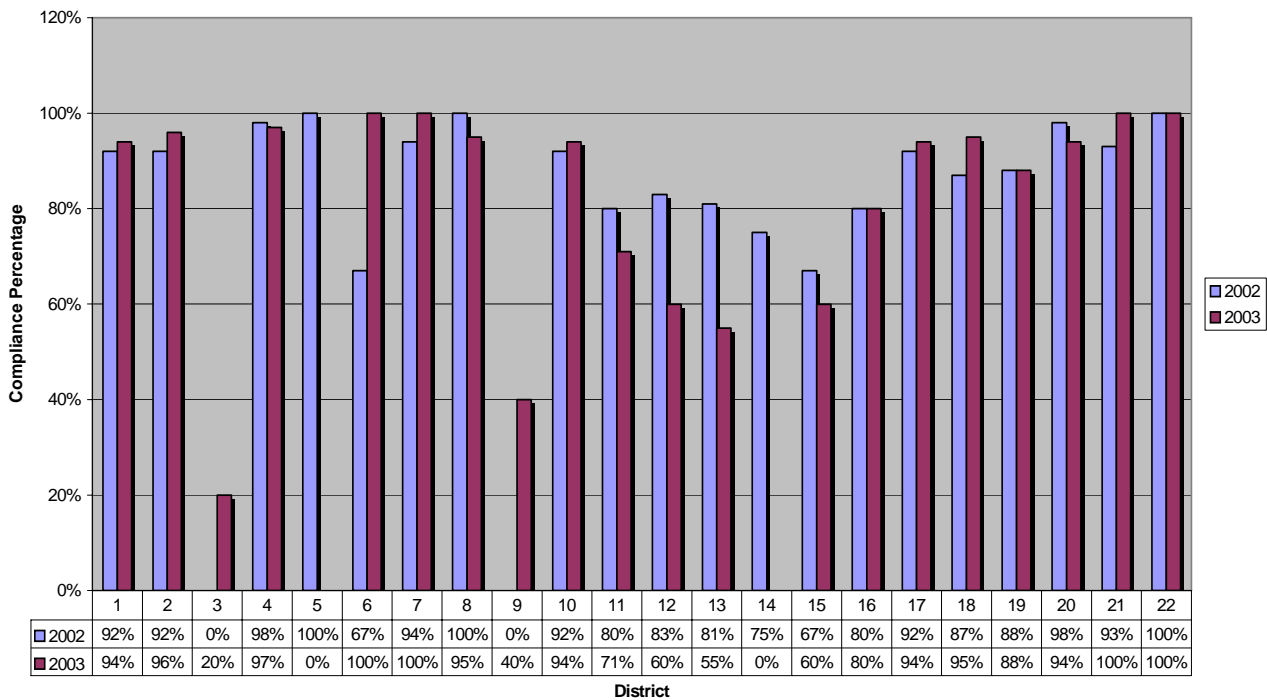
⁴ The 5th – Eagle, Summit and Lake Counties, and the 14th – Moffat, Routt and Grand Counties show 0 percent for a pass rate. In both of these districts there were few cases that fit the criteria for an EPP case. The 5th had no EPP cases that qualified for adjudication. The 14th had only three reported EPP cases. Unfortunately the adjudications did not occur within the time frame for this case. However, three cases are not statistically significant to construe a trend within that district.

of less than seventy percent. That said, these districts account for only six percent of the EPP caseload. One of the jurisdictions with a low compliance rate, the 13th (Morgan, Logan, Yuma, et. al.) indicates that they were without the help of a family court facilitator for many of the months in 2003, thus reducing one way in which the court effectively monitors these cases. However, the 13th now has a family court facilitator and it is anticipated that their compliance rates will improve in 2004. As a whole, the vast majority of the adjudications are handled in a timely manner, as evidenced by the 92 percent compliance rate statewide.

Additionally, the 5th Judicial District – Eagle, Summit, and Lake Counties, had no registered EPP cases applicable for adjudication on the court’s data information system. Thus, the zero does not mean they did not comply with the timeframe for adjudication. Similarly, districts such as the 3rd, 9th and 14th had so few cases that a low percentage compliance is not to be seen as wholly negative. The 3rd had 5 cases, the 9th seven cases, and the 14th had 3 cases filed to date in 2003. It is very possible that these cases were particularly difficult to process, with potential substance abuse issues, absent parents, or any number of difficulties in the case.

If we compare this and last year’s data a vision of improvement continues to be seen.

Court Compliance With Adjudication: CY 2002-2003



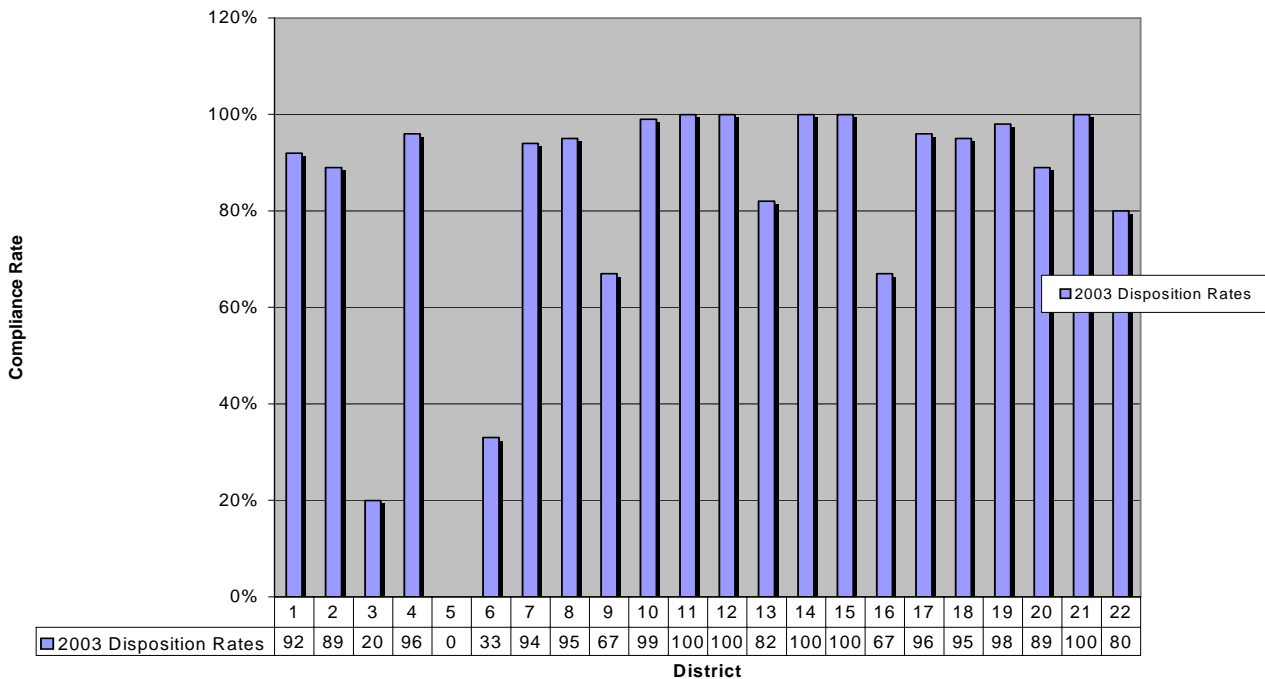
Ten of the 22 districts improved their compliance rates from last year. This is an increase from the four districts last year that saw an improvement in adjudication compliance rates. So, although there was an overall decrease in compliance from last year of one percent, we see the more telling trend is for improved compliance in each district. Several jurisdictions decreased levels of compliance from last year. Again, as noted, this is not entirely negative due to the

small number of cases in jurisdictions such as the 14th, and others. As a whole, individual districts have maintained a level of consistency seen across the years in adjudications.

As for the Disposition (or treatment plan) in the EPP case, the statutory requirement pursuant to 19-3-508(1) is being met statewide in 94 percent of the cases, an increase of two percent from last year.⁵ On the page below you will find individual districts and their respective compliance rates.⁶

As with the statistics for adjudication, there are 13 districts that have over 90 percent compliance rates. There are four districts that had between an 80 and a 90 percent compliance rate with disposition. The remaining seven had lower than an 80 percent compliance rate. Of the 12 districts with over 90 percent compliance, seven of them come from districts with larger populations.⁷ As such, this indicates that the vast majority of the cases are within compliance. Several of the other urban settings are also very high in their compliance rates. Examples of these are the 2nd – Denver, and the 20th - Boulder. The more urban settings in Colorado have the vast majority of cases within Colorado. That these urban settings are reaching substantial compliance with dispositions is an indication of a very positive occurrence within the courts as a whole.

Court Compliance With Disposition: C.R.S. 19-3-508(1) CY 2003

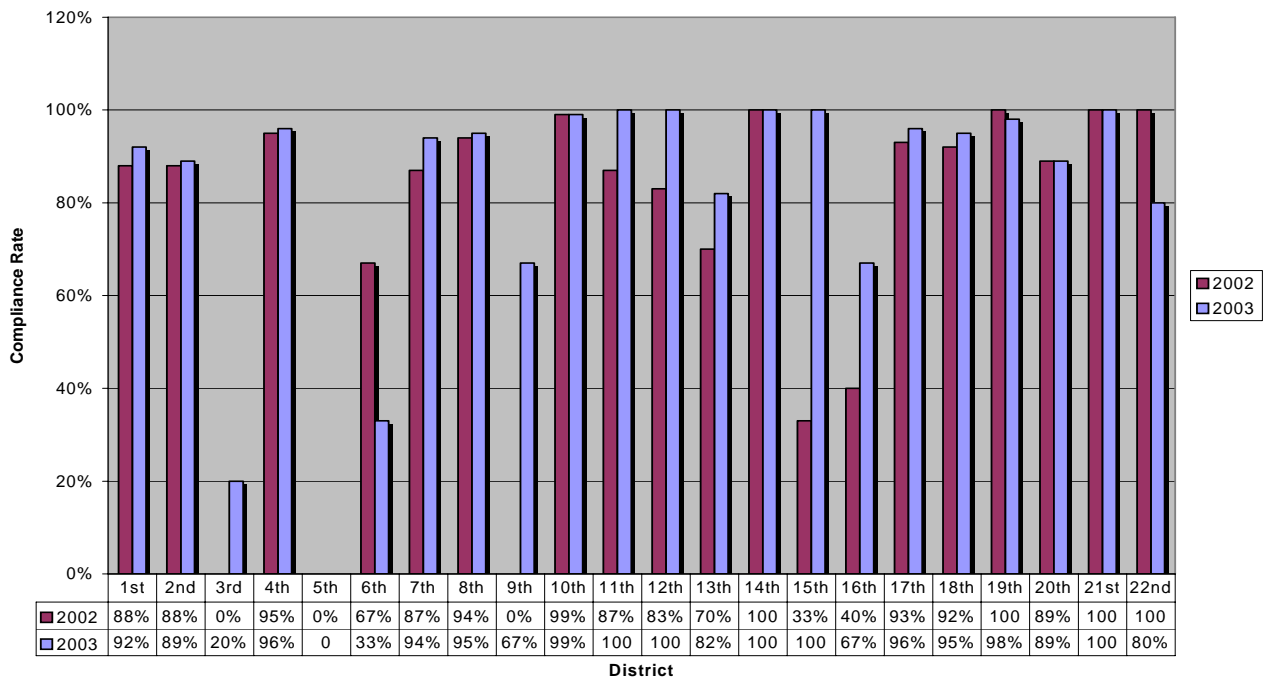


⁵ C.R.S. § 19-3-508(1) requires EPP children to have a treatment plan hearing within 30 days of the adjudication.

⁶ See FN 3. As with the previous chart with adjudication, the 5th had no cases appropriate for adjudication. The zero indicates, not a lack of compliance, but a lack of cases.

A comparison of cases from calendar year 2002 to 2003 shows 18 of the 22 judicial districts have shown, either an increase in their compliance with dispositional hearings, or the same compliance as last year. Particularly heartening is the fact that several of the larger jurisdictions, for example the 1st (Jefferson), 17th, and 18th (Arapahoe) increased their compliance rates substantially. Several of the other larger districts have also done a commendable job keeping their compliance rates consistent or better than last year.

Court Compliance with Disposition from CY 2002-2003



Consistent with the four year trend of improvement in this area,⁸ timely permanency hearings increased from 75 percent statewide compliance in 2002 to 85 percent compliance for calendar year 2003.⁹ The increased compliance rates can be attributed to many things, not the least of which is the continued attention given to these cases. As noted last year, Family Court Facilitators are now present in every judicial district in the state. As part of their job involves case management, they help ensure that the cases are scheduled in a timely manner.

Judicial officers also perform a superlative job managing their cases.¹⁰ The Judicial Branch focused much attention on trainings, and it is evident that the information shared regarding timely processing of these cases yielded positive results. A glance at the compliance graph for

⁷ The 21st – Mesa County, 19th – Weld County, 18th – Arapahoe, Douglas, Elbert, and Lincoln Counties, 17th, Adams and Broomfield, 10th – Pueblo County, 8th – Larimer County, and the 4th – El Paso and Teller Counties, and the 1st – Jefferson and Gilpin Counties.

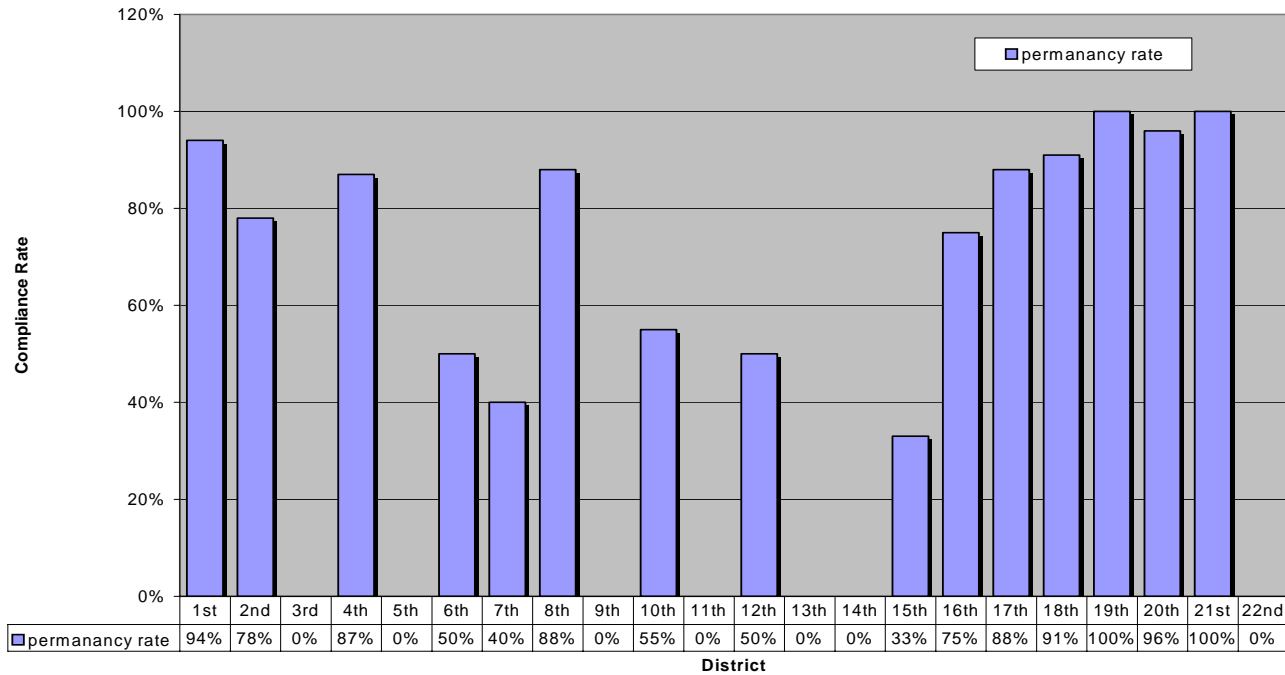
⁸ In calendar year 2000, the statewide compliance rate was 54 percent, rising to 61 percent in 2001, and 75 percent in 2002.

⁹ C.R.S. § 19-3-702(1) requires the EPP child to have a permanency hearing within 90 days of the dispositional hearing.

¹⁰ Comments one judicial officer: “...as judges we must be serious about managing our cases...with a proactive district plan and committed professionals we have been better able to serve our communities.”

2003 shows that many of the busiest jurisdictions are holding permanency hearings in a timely fashion well over 80 percent of the time - even to the point of 90 percent compliance. For example, the 18th Judicial District, (Arapahoe, Douglas, Elbert, and Lincoln Counties) holds their permanency hearings on time in 91 percent of the cases. Weld County, in the 19th, holds these hearings on time 100 percent of the time.¹¹

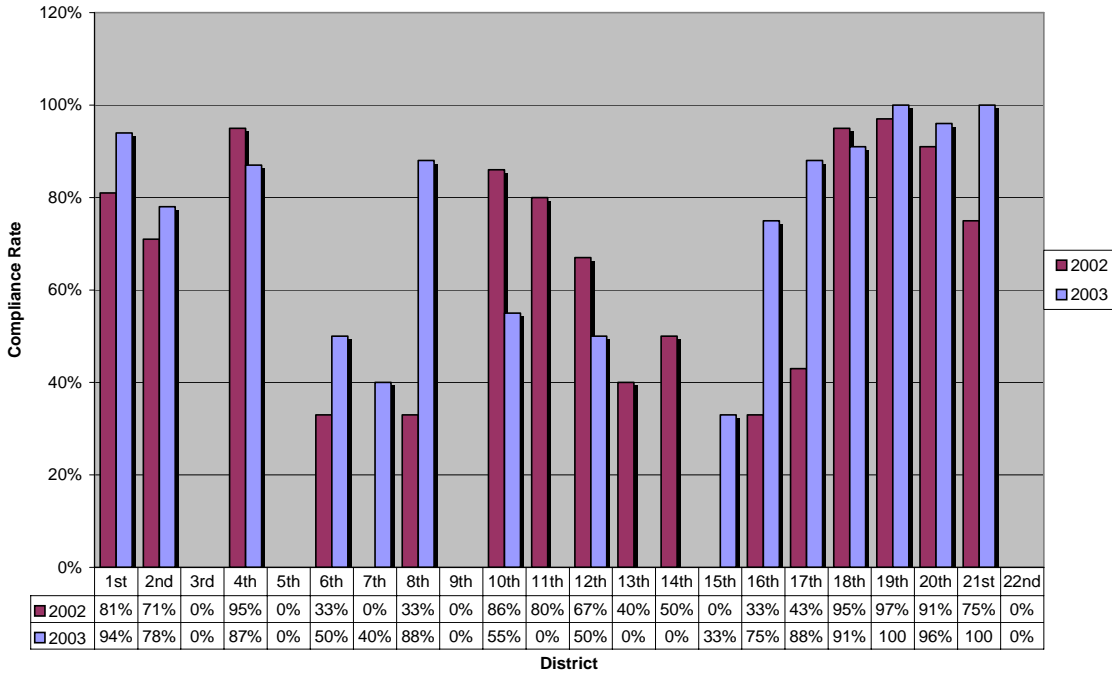
Court Compliance With Permanency Hearings: C.R.S 19-3-702(1) CY 2003



The increase from last year's figures is quite stunning. Through judicial efforts, and coordination with court personnel, as well as local county departments, CASAs, GALs, respondent parents' counsel, and all system players, the number of timely permanency hearings increased dramatically. The graph on the following page demonstrates the improvement seen from last year's permanency figures. In exactly half of the districts there was an increase over where they were in CY 2002. Particular attention should be given to jurisdictions such as the 1st (Jefferson County), the 8th (Larimer and Jackson Counties), and the 17th (Adams and Broomfield Counties). These districts saw increases in their compliance rates of sometimes over forty percent.

¹¹ Once again, that several jurisdictions have a zero for their permanency compliance should not be noted as a negative. For example the 3rd (Las Animas and Huerfano Counties), 5th (Eagle, Summit, Lake Counties), and the 9th (Garfield, Rio Blanco, and Pitkin Counties), all had no cases that would qualify for a permanency hearing.

Court Compliance With Permanency Hearings From CY 2002-2003

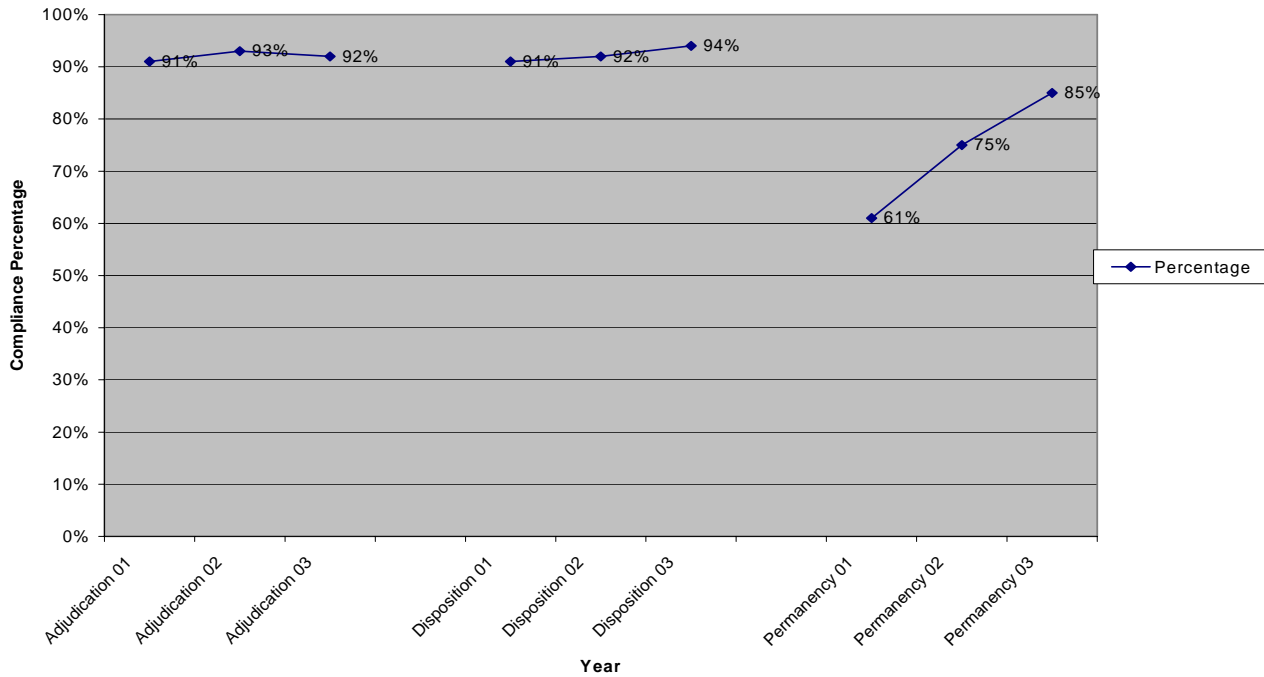


As noted last year, permanency hearings are the hearings that cause the most difficulty for all those working with these cases. The requirement for a permanency hearing, as articulated in C.R.S. 19-3-702(1) is that the hearing occur within 90 days of the dispositional (treatment plan) hearing. All individuals involved in these cases, from the judicial officers, to the county attorneys, caseworkers, GALs and respondent parents’ counsel, take this hearing seriously. The object of a permanency hearing is to have a permanent plan ordered for the child. This goal, or plan, is put in place to determine what will happen with regard to the child and the parents (i.e. reunification, adoption, foster care, relative placement, etc.) Because of the gravity of the hearing, and the nature of the decisions to be made, individuals involved in the case need to ensure that what they present to the court is a proper plan. As such, there may be some delay in scheduling these cases for a hearing and bringing them to the court’s attention. Regardless, the court as a whole has greatly improved its compliance with holding timely permanency hearings from last year.

Reasons for Judicial Improvement

On the following page is a graphic representation of compliance levels seen by the judiciary over the past three years.

Progress in Court Compliance Statewide



It is fair to say the state is still on a course of improvement in its compliance with the requirements of EPP. There is either improvement in compliance, or relative consistency from last year. As noted in previous reports, there are various reasons for the improvement. First, and foremost is the commitment on behalf of judicial officers and court staff to improve their handling of these cases. Districts still continue to be very concerned with adherence to the law. As the Judicial Branch, the court’s obligation is to uphold the law. Knowing the attention focused on appropriate handling of dependency cases, individual districts review their compliance numbers in general and make a concerted effort to process the cases within the time frames. The court is the ultimate manager of the EPP cases, and as such, all parties to the case are held to the time frames when appropriate.¹²

Judicial officers continue to develop awareness of the time frames and direct parties involved in the cases to adhere to the time frames. As noted last year, the 4th Judicial District (El Paso/Teller Counties) issues a case management document that is prominently displayed and circulated in order to alert all parties to the mandate of the EPP time frames. Family court facilitators also closely monitor the D&N cases to ensure compliance. For example, as a part of their job, they alert the parties if a case is set outside of the time frames. They also review the cases before and after to alert all parties as to the time frames. The court clerks play a role in this as well. The Court Improvement Project¹³ traveled the entire state training clerks as to proper data entry with these cases, as well as the timelines to be followed. This training is cited by many individuals as a part of the awareness raising efforts seen in the trial courts.

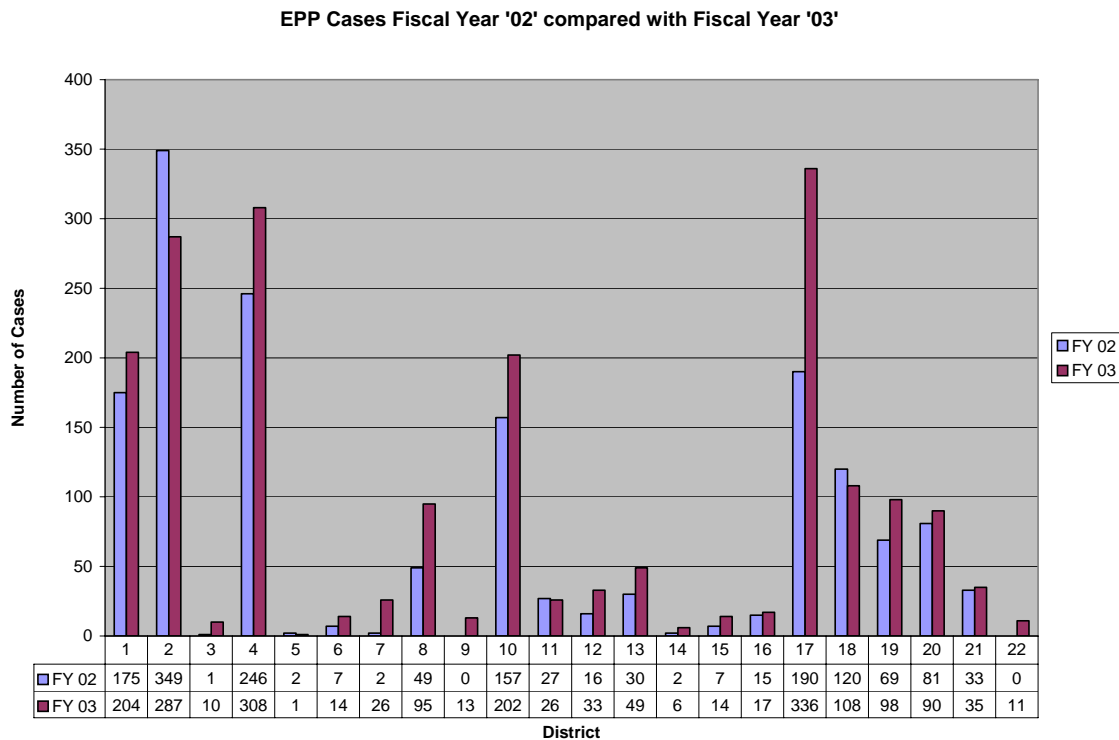
¹² “Court” includes judges, magistrates, family court facilitators, clerks, and division clerks.

¹³ The Court Improvement Project is a federal grant received by the Colorado Supreme Court to improve the courts’ handling of cases involving children.

From the courts' perspective, it is not one easily identified factor that leads to an increase in compliance, a somewhat steady level of compliance, or indeed a reduction in timeliness. As a complex system (and only one part of an even larger, more complex network), it takes the efforts of all individuals to bring about improved time frame compliance. Efforts, for example of the county/city attorneys in the districts, the social workers, CASAs, GALs, respondent parents' counsel, and other professionals involved in the case are critical to the successful maintenance of this program. All have a part in improving compliance with the time frames. However, the court, as the ultimate manager for these cases, has the lead responsibility for improving the compliance figures as a whole.

How Many EPP Cases Were Filed in the State of Colorado SFY 2002?

The chart on the following page shows the number of EPP filings statewide for fiscal year 2003 in comparison to the filings for fiscal year 2002.¹⁴ It is important to note the



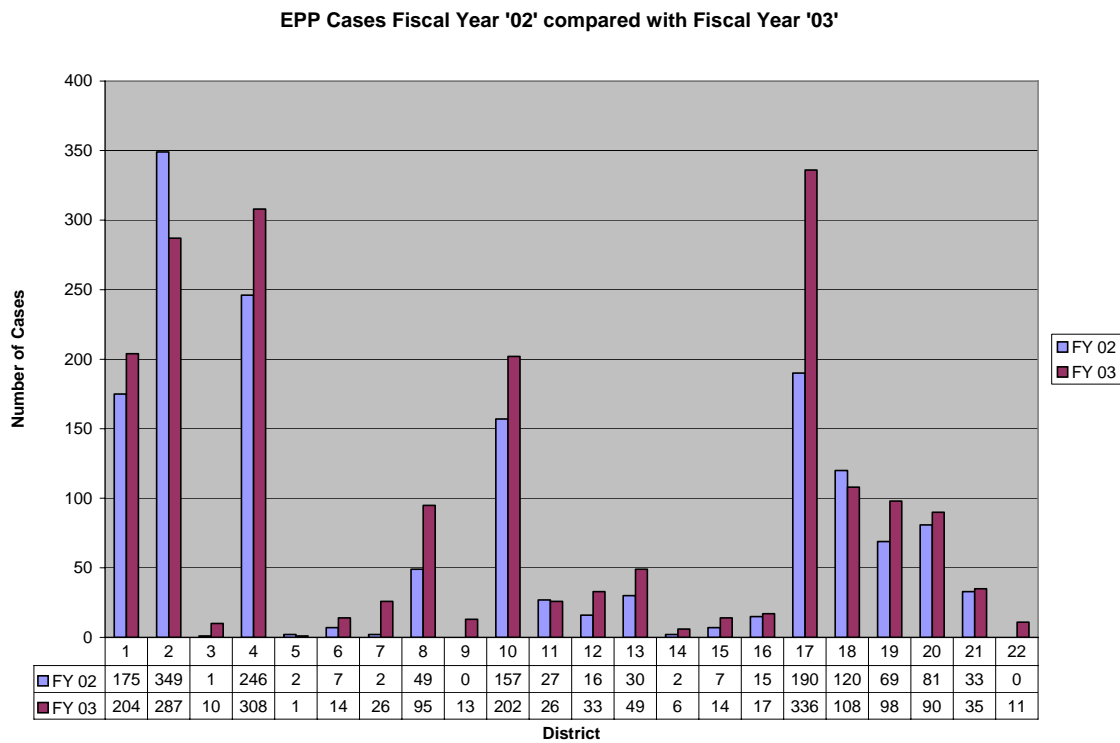
dramatic increase in cases seen over last year. As a whole, the number of D&N filings increased nine percent over SFY 02, from 3,552 to 3,869 cases. The number of EPP cases, however, increased by close to 26 percent, from 1578 in SFY 02 to 1,983 in SFY 03. Since SFY 01 the number of EPP cases increased 64 percent, from 1212 EPP cases to 1,983.

The largest increase in EPP cases over last fiscal year is in the 17th Judicial District, which saw an increase of 77 percent. In terms of the D&N caseload in general, the 17th saw an increase of

¹⁴ For total case collection, the state fiscal year is used. This is done for the sake of consistency with the collection method used in previous years' reports.

30 percent. This is a huge increase in cases, and serves to underscore the point that the courts are being required, because of the current budget situation, to do more with less. An increase in the 17th Judicial District of 77 percent in EPP cases places an enormous strain on the time of the court, especially when the timeframes for these cases is so stringent. Though this is the case, the courts are to be commended for continuing to deal with these cases effectively, while maintaining compliance with the timeframes.

As is expected, the largest number of EPP cases is found in the more urban jurisdictions. The 17th Judicial District – Adams and Broomfield Counties accounted for the majority of cases in the state. The 4th Judicial District (El Paso and Teller Counties) had the next highest volume, followed by the 2nd (Denver), the 1st (Jefferson and Gilpin Counties), and the 10th (Pueblo County).



The increase in the number of cases may be attributed to various factors. Somewhat speculative reasons may include:

- Increased attention is being devoted to manufacturing of drugs in the presence of children. For example, last year the legislature passed HB 03-1004, making the manufacture of a controlled substance in the presence of a minor criminal child abuse. Seeing that this is now per se child abuse, an automatic call to the local department of social/human services is made. Similarly, numerous trainings continue to be given around the state regarding the manufacture of methamphetamines and how detrimental this is to a child’s well-being. Increased attention and information may lead to increased filings in drug cases.
- Increased training of court staff to identify, and properly enter into the court’s

data management system, cases involving children under six.

- The downturn in the economy has resulted in more psychosocial pressure being placed on families within Colorado. This pressure may have found its release in more instances of abuse in families with younger children.
- The budgetary problems experienced by agencies in Colorado, in particular human/social services departments, may sometimes result in the reduction of voluntary and prevention services for families. When less formal services are available, it may result in the necessity for an increase in D & N filings, particularly for the very young children served in EPP cases.

Taken as a whole, the areas of Denver, Jefferson, El Paso, Arapahoe, Adams, Pueblo, Boulder, Mesa and Weld counties account for nearly three-quarters of the filings. These numbers help put into perspective some of the statements above dealing with meeting EPP time frames in a case. While a larger district with a larger volume of cases will sometimes encounter difficulty meeting EPP timelines 100 percent of the time, the fact that most of the larger jurisdictions are doing well meeting the time frames is quite impressive and positive.

Out of Home Cost Avoidance

As discussed in previous Annual Reports, evaluation as to whether out-of-home placement costs have been avoided must occur with consideration for the costs to implement EPP. Any out-of-home cost-avoidance realized in EPP continues to be offset by the cost of the front-loaded services. Front-loaded services include intensive casework services such as comprehensive family and child assessments, intensive court related activities, early development of case plans and immediate referrals for needed services. The early use of family group decision making, concurrent planning, kinship care and mediation also contribute to expediting permanency. Core services such as substance abuse evaluation and treatment, mental health services, county designed programs, including family therapy are critical to determining if reunification of the child and family is possible or if alternative arrangements are needed. Core services are funded through the Family and Children's appropriations and are equally available to all families being served by the Child Welfare system including EPP Families.

EPP funding for counties, determined by the estimated number of families to be served, is consistent with family centered practice in that it recognizes the importance of serving the entire family and not just the designated child. The need for the additional services for the parents is likely to be the same whether there are one or two children in placement. The estimated number of families in each county and judicial district used to set each county's and judicial district's level of EPP funding was determined by the number of Dependency and Neglect filings the previous year that included children under the age of six who remained in out-of-home care beyond the initial custody hearing. A needs assessment was conducted in partnership with state staff to determine which of the needed services were already in place and what additional services were needed. For nine years, eligible county departments have collaborated with the courts and community providers and then submitted a proposal to the department for review and approval for EPP funding within the parameter of a maximum of \$5,000 per estimated number of families for the needed services.

In an attempt to capture the most reliable data available related to out-of-home cost avoidance, the department tracked the out-of-home placement costs for the same population of children who were the subjects of Dr. Schene's report "Expedited Permanency Planning in Colorado" dated December 1998. Dr. Schene studied the first year's population of EPP children in Boulder and Jefferson counties and compared them to a group of children with similar demographics to the EPP population who entered out-of-home placement the year prior to EPP implementation in Boulder and Jefferson counties. This included children who entered the EPP program in Jefferson County from October 1, 1994 through September 30, 1995 and in Boulder County from July 17, 1995 through July 16, 1996. The comparison groups included children who entered out-of-home care in Jefferson County between October 1, 1993 through September 30, 1994 and children who entered out-of-home care in Boulder between July 17, 1994 and July 16, 1995.

Dr. Schene reported that when the costs of out-of-home placement across an eighteen-month period of time for the EPP children were compared to the comparison group in both counties, the bottom line was that the EPP cases incurred a mean cost of \$4,279 compared to a mean cost of \$5,657 for the children in the comparison group. This indicated a potential out-of-home cost avoidance of \$1,378 per EPP child during the first eighteen months.

The Department has followed the same population of children, to the extent they remain available to be tracked, in Dr. Schene's evaluation by tracking any additional costs of out-of-home placement through June 30, 1999 based on Child Welfare Eligibility and Tracking System (CWEST) data. It was learned that the difference in the rate of cost-avoidance for the two groups, EPP vs. comparison, has decreased over time. From the time that Dr. Schene's evaluation ended until the end of SFY 1998-99, there was an additional average variation of \$636.24 in cost avoidance for the EPP children. When added to the \$1,378 anticipated cost avoidance per EPP children through the first 18 months of out-of-home care as identified by Dr. Schene, the total variation to date for EPP children in these two counties is \$2,014. It was anticipated that this might remain somewhat static until the period of time when the comparison and EPP children reach adolescence. At that time it is possible that the comparison group will re-enter the Division of Youth Corrections and/or the Child Welfare system with costly placements at a higher rate than the EPP children. It appears from this year's statistics about this small group of children that this may be what is beginning to occur.

The 7th Annual Report in 2001 said that based on an average in SFY 2000 of 1.47 children per family in the EPP Program this resulted in an estimated cost avoidance of \$4,960 per family over an approximate four to five year span. This closely parallels the estimated \$5,000 needed to fund the up-front services for each family. The CDHS funding requests to the legislature were based on a five-year plan with incremental decreases over five years until the new funding is eliminated. For counties that had not already received their five years of EPP funding, this funding is now based on the four-year plan the Colorado Legislature endorsed in 2003. It appears that if counties were able to redirect the amount of out of home cost avoidance back into the EPP services rather than into other priorities, the EPP program could potentially be self-funding after five years, consistent with the Department's previous five-year funding plan. During this past year of statewide reduced revenues and budget cutbacks, it has been difficult for counties to channel most of whatever cost savings were realized on EPP cases back into EPP services due to many vital and competing priorities for these funds. During SFY 02-03, 28

counties remain eligible for some amount of EPP funding. All other counties have needed to absorb the cost of the needed EPP services through their other state and federal funding streams, such as Block Grants, Managed Care savings, TANF, Core services and IV-E pass through dollars. It is believed that some counties will have more difficulty than others in doing this dependent upon the condition of the economy, priorities of the county department and their county commissioners for utilization of funding.

Bringing this study's findings up to the current year, for the **seven** children in **Boulder County's EPP program** who received services in State Fiscal Year (SFY) 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$3,133, a drop of \$716 per child from last year's SFY 2002 data. For the **two** children in the comparison group who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost was \$6,239, an increase of \$2,253 from last year's SFY 2002 data. A weakness in this study has been the inability by county departments or CDHS to do longitudinal tracking of many of these children. There is no research budget as a part of the EPP initiative for the significant undertaking it would be to find and interview families and/or children and youth who have moved out of the child welfare system.

Although last year, there was virtually no difference in the out-of-home placement cost for EPP and non-EPP children during SFY 2002 at a **\$137 cost savings per child in the EPP program, this year's data shows that there is a \$3,106 cost savings per EPP child in Boulder County. This exceeds the average cost savings reported in any year since these statistics have been tracked.** Because we have only these few figures about these children and do not have other case information about them, it is open to speculation about why this dramatic cost savings is shown this year for the EPP population. It is possible that as these children have aged, the original hope regarding EPP's potential to save money over time is coming true. Older children and youth tend to have much more expensive placements than young children. By the current reporting year, the children followed would be anywhere between 9 and 14 years of age.

For the **two** children in **Jefferson County's EPP program** who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$4,081, a drop of \$365 from last year's SFY 2002 data. For the four children in Jefferson's comparison group who received services in SFY 2003 who could still be identified and tracked, the average out-of-home placement cost per child was \$5,347, a drop of \$2,140 from last year's SFY 2002 data, resulting in a **cost savings of \$1,266 per child in the EPP program for this reporting year, a considerably smaller cost savings than the \$3,041 reported last year for EPP children in Jefferson County.**

The small number of children left to be studied in the Boulder and Jefferson study groups do not represent a statistically significant sample. The combined number of EPP and Comparison Group children in Boulder and Jefferson Counties shrank from 20 last year to only 15 this year. Therefore, **generalizations to other populations should not be made from these figures.**

The original number of children in this study was much larger. There were originally 47 children in the EPP group and 30 in the comparison group in Boulder County. There were originally 82 children in the EPP group and 69 in the comparison group in Jefferson County.

An additional problem with making interpretations about Jefferson County's EPP program from these statistics is that a large number of children have left Jefferson County and have gone to other counties during the years that these cost-avoidance figures have been calculated. While the costs for services for these children have continued to be reported regardless of the county in which they received the services, it is not known if the program services these children received in other counties were comparable EPP services to those they originally received in Jefferson County. Some children left Jefferson County and went to counties that were not yet designated EPP counties. Some children later left and went to counties that were designated as EPP counties. The quantity and quality of services in these other counties was not measured.

By contrast, it appears that only one child in Boulder County's EPP group or comparison group has left Boulder County during the years of this cost-avoidance study. Therefore, it is possible that the comparison of the two groups is more accurate in Boulder County than in Jefferson County.

While the findings are ambiguous regarding whether or not there is a cost savings in the short run regarding out-of-home placement costs for EPP-designated children, it is believed that there is a cost savings to the taxpayer in the long run by providing services that attempt to assure that these children will have safe permanent homes in a timely manner. Our Colorado statistics show this year that as the children in this study age, the cost of the care for the children in the comparison group rises. National studies have shown for many years that a high percentage of the youth who fill juvenile detention centers are victims of child abuse and/or neglect that was not satisfactorily resolved while these youth were younger children. It is known that the cost to maintain older juvenile delinquents in out-of-home placement is typically far more costly than to provide out-of-home care for young children. It is known that without constructive intervention that many of the youth in our juvenile facilities go on to fill our jails and prisons as adult criminal offenders at costs that greatly exceed those required to secure safe permanent homes for children early in their lives.

As stated in previous reports, additional limitations to basing the out-of-home cost avoidance projections on this population are:

- It is based upon only two counties' FIRST year's population of EPP children. The counties have refined their approaches and it is possible that additional cost savings may accrue for children who entered their programs in ensuing years.
- At the time that EPP began in these two counties, both counties placed children extensively, but not exclusively, with their own foster families rather than in more costly placements with private agencies as occurs with some of the county departments. Therefore, the margin for potential cost-avoidance over time may be less in Jefferson and Boulder counties than it would be in counties that rely more heavily on more costly placements through private child placing agencies and residential treatment centers for this population. As indicated in previous years' reports to the legislature, there is a wide variance in practice among the county departments related to foster care placement in county and/or Child Placement Agency family foster homes with CPA placements generally being more costly.

- Out of home placement costs have increased since the population studied entered foster care. The increased costs could affect the rate of out-of-home cost avoidance.
- The savings addressed in this report and as required in the Colorado's Children's Code Section 19-1-123(2)(a) relate only to out-of-home cost avoidance. It does not address the full cost of all services nor any potential increased costs or cost avoidance related to the Block Grant or Core services. The number of subsidized adoptions has increased with no concomitant increases in the Block Grant made available to county departments. Adoption subsidies are one of the competing priorities for funding Expedited Permanency Planning services at the local level.

Reflections on the Impact of Expedited Permanency Planning

Overall, EPP can be deemed a success in achieving timely permanency for the younger children for whom the statute was intended, and older children as well. Local courts, county departments and attorneys strive to achieve early permanency for children of all ages after having experienced the success with early permanency for younger children.

It is believed that this year's reported reasons for cases becoming involved in EPP represent a stable spectrum of reasons. There has been little fluctuation in the percentages by which these various reasons comprise the reported EPP caseloads over the past few years.

That neglect continues to take a strong lead among the reasons for involvement is consistent with Child Protection caseloads in general. However, the EPP initiative may be having a particularly compelling effect on the lives of the children in neglect cases because these were traditionally the cases that were either quickly closed because it was "only neglect." This is a fallacy that has been increasingly exposed as various studies have documented the high correlation between neglect and serious abuse or death of children. Prior to EPP, it was commonly believed that little could be done to significantly impact the lives of these children, or cases were kept open for exceptionally long periods of time in the hope of gradually achieving significant change in chronic neglect situations. EPP offers a different solution to both of these interpretations of neglect cases by offering the requirement of a permanent safe home within one year. The pessimist, who takes the position that there is little likelihood of change in longstanding neglect cases, may now be able to quickly provide a safe and enhanced environment in which these children are raised, while conceivably still maintaining ties with their natural parents. Conversely, the optimist, who takes the position that change may be possible in these cases, no longer needs to keep the parents' case open in a "limbo" position for years. There are now other viable solutions to early permanency for these children while not giving up hope that their natural parent(s) may someday be able to provide more for their children and thus valuing the importance of maintaining connecting ties with these parents.

EPP is consistent with the identified national and state priority that in most situations adoption should be pursued for children who cannot safely return to their parents. EPP statistics support that children in Colorado are being adopted at a higher rate in recent years than in earlier years.

In many situations, the choice to adopt results in adoption subsidies being available to relatives, thus increasing the level of financial support that children in kinship placements are able to receive. A key criticism of kinship care policy in the United States over the past decade has been that as increasingly large numbers of children are raised by relatives, most frequently grandparents, the overall standard of living for the relative caretakers and the children has fallen, often below the poverty line. Thus, it has been observed that we have created a “two-tiered” system for children in need of out-of-home care because children in formal foster care typically receive a considerably higher level of support than children in kinship care.

In order to reflect the viewpoint of Colorado’s EPP stakeholders in this final report to the Legislature in which the authors are charged with making recommendations for any needed changes in EPP, a Permanency Task Force of approximately 40 stakeholders representing diverse viewpoints was convened by the Colorado Department of Human Services’ Child Welfare Division and the State Judicial Branch during the summer of 2003. Challenges, benefits and recommendations noted in the following sections of this report reflect the observations and suggestions made by this Task Force. (A list of the Task Force members is shown in Appendix A.)

Areas that need to be addressed for continued improvement in the EPP initiative are discussed next.

Challenges

- Perhaps the greatest challenge to the continued success of EPP in Colorado will be sustaining the ability to provide the services necessary to a significantly increasing number of children and families for whom the EPP time frames apply. While this represents the “good news” that EPP is more integrated into our State than ever before, this news comes at a time when the large increase in numbers reported by both county departments of human/social services and local judicial districts presents a special challenge in an economy that is demanding cutbacks rather than expansions in child welfare services. When resources decrease, vulnerable children become even more vulnerable.
- A serious challenge is the pressure that EPP court hearing time frames place on caseworkers and others in the assessment and treatment community to conduct adequate and responsible assessment in order for the Treatment Plan to target the most appropriate services. In a legal environment that begs for services to be more accurately targeted and obtained for clients than ever before due to shortened time frames, there is the least time in which to conduct comprehensive and meaningful assessment. Meaningful assessment requires the potential for some positive relationship to develop between assessors and clients. It is a challenge for courts and departments of human/social services to hold hearings and produce Treatment Plans quickly enough to meet EPP time frames while allowing as much time as possible for adequate assessment to lay a sound foundation for the Treatment Plan. The Colorado Assessment Continuum’s required procedures for Safety, Risk and Needs Assessment constitute the core of that assessment. How to better assure that both of these objectives are achieved was a key area that was explored during the past year by the Department of Human Services and the Judicial Branch through

engaging local courts, departments of human/social services and other EPP stakeholders in a three-day Permanency Forum.

- That almost 50 percent of our EPP cases involve substance abuse signals the need for continued emphasis on finding and utilizing treatment strategies with these cases that maximize the speed with which recovery may occur within the context of relapse as a typical part of treatment for substance abusing parents. Thus the likelihood of these parents being fully ready to safely parent independently within one year is often not realistic. In situations in which it would not be safe for parents to take care of their children in independent living arrangements, more emphasis needs to be placed on strategies such as Whole Family Placement/Shared Family Care that allows for the possibility of parents living together with their children in treatment settings and/or in trained mentor host homes in order to either prevent placement of the children into foster care or to enhance the possibility of the children being reunified with their parent(s) within one year in a setting that both preserves the parent-child bond and protects the safety of children.
- Many of the EPP cases involve **parents who have moderate to severe substance abuse problems**. Given the nature of their addictions, allowing only three months following the disposition hearing to have a permanency hearing, and then requiring children to be in a permanent home within one year, may not be giving parents enough time to work on their problems. Courts, caseworkers, and attorneys could place such emphasis on simply meeting the time frames, that the requirement that the best interests of the children be served could be compromised when making permanency decisions. It was noted during the videoconference with participants who work with EPP regularly that “A Study of Expedited Permanency Planning in Colorado” conducted by Susan Klein-Rothschild, M.S.W. and Cathryn Potter, Ph.D., dated December 18, 2000, pointed to a higher likelihood that children would achieve a permanent home within one year if parental substance abuse was a factor. Although not the focus of that study, it is believed that many of these children found their permanent home through kinship care.

It is believed that some of the children who are not in their permanent homes within one year of removal, but achieve permanency within a few months later, are from families where gains in substance abuse treatment may be significant. In these cases an additional brief period of time is needed for sufficient recovery before the child can be safely and permanently returned to the parent's care. It was observed that in one part of the state with limited residential and hospitalization facilities for inpatient treatment that parents were being released prematurely, thereby jeopardizing the gains made during treatment. This complicates and can lengthen the recovery process and weaken the possibility of timely and safe reunification. A new development in Colorado that represents hope for finding new solutions to this challenge is that this is one of four states approved in July 2003 to receive technical assistance from the National Center on Substance Abuse and Child Welfare. A collaborative team representing the Judicial Branch and the Department of Human Services' Child Welfare Division, Alcohol and Drug Addictions Division, and Mental Health Division lead the effort.

- An additional impetus for supporting new family-oriented solutions is the static nature, at best, in the number of EPP cases in which reunification with parents from whom the child was removed has become the permanent plan over the last years of EPP statistics. This

outcome dropped from a reported 43 percent in SFY 01 to 36 percent in SFY 02 and then back up to almost **42 percent this year**. This means that **almost sixty per cent of children in EPP cases are going to other permanent homes than the ones from which they were removed**. The reunification statistics look somewhat better when return to the “other parent” with whom they were not living at the time of removal is added into the statistic. When this additional 9.37 percent is added, **slightly over half (51.2 percent) of children in EPP cases are being reunified with at least one parent**. While alternative permanent plans may be best in many cases, it is concerning that almost half of children are not able to be safely returned to at least one of their parents within one year. This reflects a shortage of sufficiently intense and creative treatment solutions in Colorado that are capable of making a meaningful positive impact on these parents in less than one year. EPP findings show that the children of substance abusing parents reach permanency within one year at a higher rate than some other types of cases. It is believed that this is because it is recognized early in these cases that these parents are unlikely to be ready to independently safely parent their children within one year. Thus, arrangements begin to be made very early in the case, typically with relatives, for someone other than the respondent parent(s) to be declared the permanent custodian by the one year mark in the case.

- **In the early years of EPP implementation when funding was more available, families were often able to have their own advocate** because of the strong relationship developed with the caseworker when there is a separate caseworker for the parents and for the child. In these challenging economic times, the use of two caseworkers on an EPP case has become difficult to maintain in counties that have used this approach, and has been almost completely eliminated. The support and advocacy provided by the parents’ caseworker is more readily available when another team member is addressing the needs of the child, and is surely missed by families around Colorado.
- The increase in the number of children in need of adoption offers a challenge. With expedited time frames, parents’ rights are being terminated more rapidly. This increases the number of adopted children and also results in adoption subsidies being provided earlier in the life of the child. The increasing number of adoption subsidies beginning earlier and likely remaining in place until the child reaches majority impacts the available funds through county departments’ Block Grants. The EPP funding has been primarily targeted toward the front loaded services with minimal if any increases in the availability of resources to adoption caseworkers. The result is a small pool of adoption caseworkers left to serve an ever-increasing number of adoptive children. Fortunately, this is somewhat tempered by the use of concurrent planning as many of the children are already residing with potential adoptive families when a decision is made to terminate parental rights.

It was further noted that with concurrent case planning, a relationship is often developed between the parent and potential adoptive parents resulting in openness in adoption when reunification does not occur. Counties report that **adoption workers are in need of training on how to work with their families around openness in adoption** when in Colorado this is supported only by case law and not by Colorado statute. A challenge that continues is to successfully implement **legislation that allows for formally open**

adoption in Colorado and also protects children for whom open adoption and continued contact with their biological parents would be detrimental or even dangerous.

- It is presumed in the EPP statute that any **transfer in proceedings**, without good cause shown, that results in a delay in the judicial proceedings is detrimental to the child's best interests. However, it appears that some localities continue to request changes in venue for EPP cases if a parent relocates to a different jurisdiction. Although this may be appropriate in exceptional circumstances, there is a need for continuing training of localities around the statutory requirements related to change in venue. The transfer is likely to impact not only the court proceedings but likely interrupt the services being provided in the originating locality. CDHS sponsored statewide training for relevant Human Services and Court personnel in September and October 2002 about the statutory and regulatory requirements for conducting Change of Venue. Colorado Department of Human Services adopted revised rules in 2003 to better clarify these requirements. It is hoped that this will have a positive impact on all the parties sharing a constructive and common understanding of Change of Venue, particularly in EPP cases.
- **Many counties and courts are now attempting to apply the EPP philosophy and timelines for children of all ages.** This is a positive outcome for all children. However, when coupled with reduced levels of funding in accordance with the five-year funding plan, the specialized teams that were developed by some large county departments in the earlier years of EPP are being transformed into teams which serve children of all ages. It is possible that this may result in the dilution of some of the specialized services developed to meet the permanency needs of the younger population.
- We must continue to explore the reasons why "permanent" placements disrupt. The nine percent disruption figure reported this year is almost double the five percent figure reported in 2001, although it is down one percent from the 10 percent figure reported last year.
- The diversity of opinion in Colorado about whether or not EPP should be continued as it is or not is a challenge for all who are concerned about the needs of young children. The Permanency Task Force, comprised of a diverse membership that was convened by State Judicial Branch and Colorado Department of Human Services (CDHS) in the Summer of 2003 to develop recommendations regarding the future of EPP, recommends continuing EPP. CDHS recommends continuing EPP due to the reduction in time it takes for children to achieve permanency as the result of EPP and the cost savings that result from EPP. However, elimination of EPP and the adoption of the language of the Adoption and Safe Families Act as it pertains to permanency for children of all ages is one recommended method to reduce county workloads included in Footnote 64a to the Long Bill submitted by the Department of Human Services, County Administration, to the Joint Budget Committee in October 2003.
- Judicial officers are bound to follow the law as it is written. As articulated in C.R.S. § 19-3-505(7)(b), currently there is a preference for holding the dispositional hearing on the same day as the adjudicatory hearing. This being the case, some jurisdictions hold the disposition on the same day as the adjudication. The Judicial Department has agreed to provide training examining the pros and cons of combining the hearings, including a discussion of adequate early assessment, and development of treatment plans that engage

the family in a meaningful way.

- While EPP addresses the developmental needs of young children who have come into our child welfare and court systems, it does not address the need for more prevention services to be provided to families in Colorado so that it is not necessary for the court to become involved in as many cases of abuse and neglect. While being placed in a permanent home within one year of removal from their home helps to mitigate against significant emotional damage of these children, not disturbing the parent-child relationship in the first place through the child's removal better assures that emotional damage from disruption of the attachment bond between parent and child will not occur.

Benefits

- Only 18 percent of young children in Colorado are not in their permanent home within one year of removal from their original homes. **Thus, almost 82 percent of young children going into out-of-home care will have the opportunity to bond with a primary adult with whom they can count on a permanent relationship.**
- **The sense of urgency for timely permanency creates a need for frequent collaboration among the professionals** involved in serving the families. Caseworkers, therapists, and attorneys can no longer work in isolation of each other and it is becoming commonplace for frequent communication and coordination of efforts, services and decision-making to occur.
- There is a pronounced **appreciation for the negative impact that is created by the anxiety suffered by parents and children through uncertainty about a permanent plan.** This has resulted in more people "thinking out of the box." Examples of this are trying to apply the time frames to older children, developing ways to speed up services, court hearings, and case decisions, even if by a day or a week. There is a heightened sense that every effort must be made to respond to the child's urgent need for permanency. It is also recognized that this sense of urgency must be balanced by an equal value on thorough assessment and case planning being the foundation for these serious case decisions.
- The shift to a system with **front loaded services** represents a significant change in Child Welfare practice from the early 1990s. Keeping parents involved and making relevant services immediately available and accessible are keys to children being able to either reunify successfully with their parents or be placed in another permanent home within the mandated timelines.
- **The early development of a concurrent plan** to achieve permanency through means other than reunification results in children residing with potentially permanent caregivers prior to a year from removal. In some instances, these placements occur immediately or within days and weeks of removal.
- A key to this **legislation's success is its flexibility** that allows the courts to make findings that a delay in permanent placement is in the best interests of the child. Clear and convincing evidence that reasonable efforts were made to find an appropriate home and no such home is available or that the child's mental and/or physical needs and conditions deem it improbable that the child would have a successful placement are reasons that may be used to support such a delay.

Prior to EPP, permanency planning took place in an environment characterized by sequential planning. Extended periods of time were dedicated to reunification efforts and only after these efforts failed were other forms of permanency considered. During these lengthy periods of time, children often experienced the negative impacts of multiple placements and separation and losses. This would often result in an impaired capacity to develop trusting relationships/attachments with the caregivers, increased incidences of children with developmental delays and emotional and behavioral disturbances. By contrast, most of the EPP children today are leaving foster care and entering permanent placements more quickly. They experience fewer placements and anecdotally there are reports that they are leaving the system with decreased severity of emotional and behavioral disturbances as a result of being less harmed by their out-of-home experiences.

Colorado's Expedited Permanency Planning statute and the federal Adoption and Safe Families Act's time frames have had a positive impact on the lives of the children and families served. No longer do cases languish for three or four years waiting for decisions to be made regarding the child's future. Cases are handled quickly, due to the importance of providing a sense of security and stability to a child's life. As mentioned earlier in this report, the expedited timelines are being informally adopted for children of all ages in some jurisdictions. Colorado children continue to benefit from the foresight of the General Assembly in enacting HB-94-1178. The legislation posed challenges to courts and county departments to be more responsive to the needs of children. The courts, county staff, attorneys, treatment providers and especially the families themselves have met the challenge to improve the outcomes for children in the Expedited Permanency Planning Program.

Recommendations

- Continue Expedited Permanency Planning for young children in Colorado. Continue to require that young children covered under our EPP statute be in a permanent home within one year.
- EPP timeframes should be used as voluntary guidelines by the courts and departments of human/social services for cases involving older children.
- Because early comprehensive assessments lead to well-targeted treatment and more successful permanency outcomes for children, judges throughout Colorado should be trained to recognize that combining the adjudication and the disposition on the same day is not always in the best interests of the child. There are certainly times when it is in the best interests, but there needs to be adequate time for comprehensive assessment that leads to an individualized and well targeted treatment plan developed with and for the family. This should result in Adjudication and Disposition Hearings being combined less frequently. If such training does not result in a correction to the problem of inadequate time for assessment and treatment planning, in a future year the legislature may wish to amend the language in the Children's Code found in C.R.S. § 19-3-505(7)(b).
- State Judicial, local judicial districts and county departments of human/social services should collaboratively implement an agreed upon protocol for speedy diligent search for relatives in cases for which a Dependency and Neglect Petition has been filed.
- Colorado should pursue collaborative agreements between Colorado Department of Social Services and the State Judicial Branch that seek to increase resources in Colorado for

substance abuse treatment for parents that fulfills the best interests of children.

- State Judicial Branch and Colorado Department of Human Services should continue to train statewide to the revised Change of Venue protocols developed and implemented in SFY 02-03. Change of Venue in EPP cases should continue to be assumed to not be in the best interest of the child unless such best interests are able to specifically be shown to be sustained through a Change of Venue.
- The mandates of EPP require these cases to move quite rapidly through the court process. As such, substantial resources are required to adequately address the multi-faceted problems found in the families. Mindful of the current budget situation, and the new fiscal realities presented to all agencies, the legislature should continue to fund needed services in order to help rehabilitate families and facilitate permanency.
- Research should occur to further explore the reasons why “permanent” placements disrupt in Colorado.
- Children should not become “legal orphans.” Termination of Parental Rights should not occur unless there is a stable permanent home established for a child.
- In order to more fully serve the intent behind the EPP legislation regarding the importance of protecting very young children who undergo a critical bonding and attachment process prior to the time they reach six years of age, services intended to prevent infants and young children from being abused and neglected by their parents should be expanded in Colorado in order to reduce the frequency of the need to remove young children from their parents. It is recommended that legislation be implemented that supports instituting home visitation programs that send a trained nurse or lay therapist into the home of every newborn child in Colorado on a voluntary basis.

In conclusion, during the last decade we have implemented historically significant changes in how children move through the child welfare and court systems in Colorado through Expedited Permanency Planning. This monumental shift in how permanency planning is approached in this state has resulted in changes for children that may be expected to have overall positive impact on this and future generations. The influence of EPP extends beyond our state’s borders as many other states have looked to Colorado during the past decade for insight and guidance regarding permanency planning, especially for young children. We enter the second decade of EPP in Colorado in the context of our history of successes and existing challenges. With EPP’s success freshly before us, may the challenge of preventing children from being severely abused and neglected in the first place become a new call to action.

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