

CSWTF Proposal – Durham Abuse/Neglect/Dependency (A/N/D) Court, Department of Social Services (DSS) Child Welfare Reforms

Submitted by	Criminal Legal System Round Table: Marcia Owen, Andrea Hudson, Jatoia Potts, Mike Sstrom
Local Governing Body/ies to Implement	<ul style="list-style-type: none"> • Durham County Commission, • Durham DSS, • Durham Guardian ad Litem (GAL), • Durham County Community Child Protection Team (CCPT)/Child Fatality Prevention Team (CFPT), • Durham Chief District Court Judge & district court judges assigned to A/N/D, • Durham County Public Defender Office
What agencies and organizations are required to make this recommendation successful?	<ul style="list-style-type: none"> • Durham County Commission • Durham DSS • Durham Guardian ad Litem (GAL) • Durham County Community Child Protection Team (CCPT)/Child Fatality Prevention Team (CFPT) • Durham Chief District Court Judge and district court judges assigned to A/N/D, Durham Court • Durham County Public Defender Office • Durham Criminal Justice Resource Center • A variety of service providers in the community for children and families
Did the RT consult with these agencies and organizations? Response?	<ul style="list-style-type: none"> • Durham County Commission received an invitation to meet on these issues; one commissioner met with a member of the Round Table, feedback incorporated • Durham DSS received an invitation, declined to participate • Durham Guardian ad Litem (GAL) – corresponded with Christy Malott, an attorney advocate, feedback incorporated • Durham County Community Child Protection Team (CCPT)/Child Fatality Prevention Team (CFPT) – corresponded with Christy Mallot, team chair, and received the Team’s report, feedback incorporated • Durham Chief District Court Judge and district court judges assigned to A/N/D – meeting with chief district judge & group of parent attorneys about courtroom, feedback incorporated

	<ul style="list-style-type: none"> Durham County Public Defender Office – meeting with parent attorneys about A/N/D court, feedback incorporated
Estimated Full Cost	No Task Force funds requested. Many of these policy proposals will require additional resources, but that is for the implementing agencies to determine later.
Estimated Request to local government	NA. Relevant agencies will determine costs involved in expanding staff and resources as needed to implement.
Request/Project Timeline	NA

Proposal Summary (see below for space for additional implementation and budget details)

A package of proposals to ensure Durham County’s A/N/D courtroom and child welfare system respect family integrity, end unnecessary family separation, and increase the opportunities for Durham’s families to thrive. We make suggestions regarding culture shifts in the A/N/D courtroom and within DSS and the GAL program, as well as specific policy proposals that can be adopted on the local level to improve efficiency and improve substantive outcomes for children, parents, and caregivers..

Rationale

Needs Proposal Addresses	<p><i>[From Mike: as of the submission of this proposal, the county records office and DSS haven’t responded to a public records request for these basis statistics for 2022: the total number of cases Durham DSS reviewed in 2022, the proportion of those cases that resulted in termination of parental rights vs. reunification vs. case “dropped”, and their total staff numbers. If we are able to obtain that data by the time we submit our CLS RT final report, we’ll be able to include that. If not, we’ll note the data request and the lack of response. That speaks to the issue of inadequate and opaque record keeping by DSS and the A/N/D court. That’s an issue we address and propose solutions]</i></p> <p>Durham County is the second-slowest county in North Carolina to achieve reunification of separated families, with</p>
---------------------------------	--

	<p>children in care for a median of 677 days, compared to 578 for Wake, 541 for Mecklenburg, 434 for Wilson, and 259 for Warren. Seven out of 10 children are still in custody after 720 days in Durham County. Durham’s A/N/D courtrooms are notoriously backlogged and slow, with parents and foster caregivers <i>both</i> complaining about repeated continuances that require them to take off from work and come to court, only to wait all day and have nothing happen.</p> <p>There are shortages of DSS social workers, parent attorneys, and foster caregivers in this high-stress and high-burnout context. We have children in Durham who are lost, having run away or fallen prey to traffickers. We have children who age out of foster care without support; many are bound for incarceration and another generation involved with CPS. We have medically-vulnerable babies who have been unnecessarily institutionalized. Disproportionately, these children are Black children or other children of color. In Durham, 64% of children investigated by CPS are Black. This system is desperate for reform.</p> <p>It is difficult to recruit workers in these fields because the conditions of work are inhumane: people who love children are asked to take kids away from loving parents and then slog through slow and inefficient bureaucracies. But studies show that in cases where families face substance abuse, mental health, and/or the hardships of poverty – but not sexual or extreme physical abuse – the trauma of removing a child from their family is far greater than the trauma of remaining. Yet, our system takes kids away from parents that love them and want to do better, harming everyone – including the systems-workers – in the process. We need to give everyone a more humane system that provides people with what they need: care and support, rather than harm and bureaucracy.</p>
<p>Proposal’s Goals</p>	<p>We want to re-envision the “child welfare” system to move from one that is based on “family policing” to one that is modeled on the highly-successful HEART program: we need to provide holistic interventions for struggling families to let them thrive together, rather than involuntarily separating them. New federal law, the Families First Act, recognizes this shift in philosophy as crucial to remaking the system, and it permits the use of federal funds for resources to preserve families. We must move decidedly to shift the</p>

culture and our policies so that our agencies – DSS, GAL, and A/N/D court – are moving with this goal in mind.

Top-Line, Big Picture Policy Recommendations:

1. Establish a shared mission and vision for DSS, GAL, and A/N/D court to establish a **collaborative and communicative** process with the goal to prevent unnecessary family separation at the outset (provide services without removing child); to prioritize kinship placement, even if kin are out of state, when children must be removed; and to seek reunification as first priority, even when foster caregivers want to adopt and are good caregivers. These goals are supported by state law, yet are honored only in the breach. *See* N.C.G.S. 7B-100. A vital aspect of improved communication is to **improve DSS’s communication systems** to ensure parents are timely aware of all important dates including visitation, conferences, appointments, and court dates. DSS also needs to update **phone systems** to ensure social workers are able to send, receive, and store text messages, and ensure social worker voicemail boxes are not full. Currently, the antiquated systems cause failures to advise parents of important information and dates, causing lost opportunities and delays in cases. DSS should implement **online mobile-friendly systems** for parents to access all relevant files, case notes, appointments, and other information.
2. Work with all stakeholders to use court time wisely, and to **end the egregious continuances** that plague the Durham A/N/D courtroom and make cases go on for years at a time, sometimes continued over and over again for months while children languish without progress. Durham is the second-slowest county in the State. This change will require judges to take the **statutory time-frame requirements** seriously, rather than waive them, and will require judges to hold DSS and GAL to their time estimates; it requires DSS to cooperate and collaborate with parent attorneys to negotiate and narrow issues for the courtroom, and to agree to things outside of court; it requires parent attorneys to prepare in advance and actively seek narrowing of issues from DSS. **A/N/D orders should be signed within 2 weeks** after a court hearing.

3. **Increase visitation** between children and parents, including providing visitation options in a **neutral, welcoming, and warm space**, rather than inside DSS or the courthouse. Fix DSS's system on **visit schedule notification** so that parents aren't forced to miss visits due to lack of notice. Contract with companies to provide **transportation services** for parents and children outside of traditional working hours so that transport availability is not a barrier to visitation. Make maintenance and strengthening of family bonds paramount.

4. Support parents going through this difficult system with robust **peer mentorship programs** that can assist them to navigate bureaucracy and provide emotional/community support during a traumatic experience. Studies show these programs, such as the [Iowa Parent Partner Approach](#), increase the speed with which parents complete case plans and achieve reunification.

5. Re-focus on "**Family First**" by eliminating the practice of recommending adoption as the permanent plan prior to termination of rights. Provide resources and training on co-parenting between foster caregivers, biological parents, and/or kinship providers. Focus on maintaining family relationships. Hopeful of pending changes in state law ([Senate Bill 625](#)) to allow post-adoption visitation and contact contracts, among other reforms, **promote voluntary open adoptions and promote continued relationship** between parents and their children after adoption to new caregivers, for the good of all parties. Research shows this is the healthiest way to do adoption, for children who always seek to know where they come from. Seek training on **trauma-informed** courtroom models, provision of services to struggling families without removing children, the traumatic impact of removal, and holistic approaches to family welfare. **Take lessons from the Durham HEART team on mission, vision, and approach to issues.** Work with stakeholders in Orange County to understand its progress toward a more trauma-informed process, including the Family Treatment Court.

Other suggestions:

A/N/D court process:

- Reform the local A/N/D courtroom rules, adding the policy language highlighted above in the Big Picture proposals, and modeling rules on discovery, reports, and continuances from Orange County and Wilson County's rules.
- Require A/N/D court orders to be signed within 2 weeks of the hearing to prevent unnecessary delays in making referrals, updating case plans, etc
- When there is truly an emergency regarding the safety of a child, hold expeditious hearing, do not delay for weeks at a time!
- Create a trauma-informed court model for A/N/D court. This includes increased training on the impact of domestic violence and family violence on survivors, including parent victims of violence. Truly integrate trauma-informed approaches within DSS and courtroom.
 - Improvements to physical court space to make it child-appropriate
 - Return of Family Treatment Court for parents with substance abuse issues co-occurring with DSS involvement
- Expect A/N/D judges to require the Child and Family Team to have worked out the details prior to hearings and to ensure the plan is being followed. Expect this team to be working collaboratively toward solutions that maintain families whenever possible,
- Institute time-slot scheduling for hearings so people do not wait around in court, wasting so much time.
- Rotate A/N/D judges to prevent burnout and from developing too close relationships with DSS staff and attorneys.
- Appoint different judge for termination of parental rights for purposes of neutrality
- Bring back Family Treatment Court
- Permit children of appropriate age to have a voice in terms of the express wishes of the child.

DSS:

- Fix case management systems to improve notifications for parents about court and visits to ensure timely and effective notification; stop sending encrypted emails to parents without regular

computer access; generally make communication more transparent, user-friendly, and timely; update phone systems to ensure social workers can send, receive, and store text messages; ensure voicemail boxes are not full. (see above)

- Contract with companies to provide additional transport options for visitation
- Collect and review parent needs assessments before, during, and after cases to ensure appropriate services are being recommended
- Notify family teams upon any change in assigned social worker or manager
- Ensure new personnel have reviewed case details prior to making recommendations or decisions on the case
- Eliminate practice of updating permanency plan recommendation to adoption or placing children in pre-adoptive homes while parental rights are still intact
- Customer service feedback surveys for staff in email signatures to collect private confidential feedback from all stakeholders to improve service
- Expand contracts with drug testing centers throughout NC to reduce the need for parents to travel to Durham for drug testing. Utilize online drug screening and background check systems to improve processing times and transparency.
- Expand DSS caseworker support and training to reduce burn-out and turnover, change the mission and vision to one that is closer to HEART values.
- Explore bringing clinical services in house at DSS – the way Wilson County DSS does – to be able to provide more timely services and evaluations for children.
- Allow DSS caseworkers to suggest appropriate interventions to build a system of care in collaboration with parents, children, and families, rather than separating families out of fear of the worst-case scenario; provide training and resources about benefits of co-parenting with biological parents and/or kinship providers; support and resource co-parenting models

Parent Defense

- Provide funding for additional Assistant Parent Defenders and social worker staff to assist parents

with case plan completion from the defense side, as national experience demonstrates that holistic defense models lead to better and more efficient outcomes for families

- Provide more spaces for attorneys to meet with parents in the Courthouse.
- Explore funding options to provide counsel upon initiation of CPS investigation as one method of “reasonable efforts” to avoid separation
- Continuing legal education requirements for attorneys to improve quality of representation.

Visitation:

- Increase weekly visitation time.
- Establish availability for evening and weekend visitation.
- Offer a greater variety of neutral, safe, welcoming locations available for visitation (e.g., recreational activity options in order to facilitate continued bonds).
- Shift the model towards a system that does not require supervision in every case, and does not require a social worker to supervise in every meeting.
- Institute DSS policies that discourage recommendations that end visitation.
- Fix notification/scheduling and management system to ensure parents are timely aware of their visit times (see above)
- Increase transport options (see above)

Supporting Families First

- Provide County funding to support parents going through the process with holistic services – including legal, social work, paralegal, peer support, etc.
- Make resource investments in supporting biological families to stay together commensurate or higher than those given to foster families.
- Establish more robust psychological services for kids, as well as a mechanism for foster parents to efficiently request services for children.
- Improved language justice, including increasing the number of bilingual social workers, therapists, parental evaluation examiners, and interpreters.

Data and Transparency:

	<ol style="list-style-type: none"> 1. Improve systems of public accountability, input, and assessment into DSS and the A/N/D court. More regular, publicly accessible data. Create community advisory boards. DSS, GAL, and the A/N/D Court team should host Listening Sessions/public forums. 2. Improve data collection and public reporting by DSS, Guardian Ad-Litem, A/N/D court on various topics, including: <ul style="list-style-type: none"> • Continuation rates • The role of race in case outcomes
<p>How the proposal aligns with Task Force by-laws</p>	<p>“Conduct a comprehensive review of existing institutional and community-based public safety and wellness resources. Identify community safety needs that are not currently being served and provide recommendations for how to add new resources to fill these gaps.”</p>
<p>How the proposal aligns w/ strategic plan/s of governing body/ies to implement?</p>	<p>From § 7B-100 (Purpose) of the North Carolina Juvenile Code governing Abuse, Neglect, and Dependency and outlining the process county DSS’s and A/N/D Courts are to follow:</p> <ol style="list-style-type: none"> (1) To provide procedures for the hearing of juvenile cases that assure <u>fairness and equity</u> and that protect the constitutional <u>rights</u> of juveniles <u>and parents</u>; (2) To develop a disposition in each juvenile case that reflects <u>consideration of the facts</u>, the needs and limitations of the juvenile, <u>and the strengths and weaknesses of the family</u>. (3) To provide for services for the protection of juveniles by means that <u>respect both the right to family autonomy and the juveniles' needs</u> for safety, continuity, and permanence; and (4) To provide standards for the removal, when necessary, of juveniles from their homes <u>and for the return of juveniles to their homes consistent with preventing the unnecessary or inappropriate separation of juveniles from their parents</u>. (5) To provide standards, consistent with the Adoption and Safe Families Act of 1997, P.L. 105-89, for ensuring that the best interests of the juvenile are of paramount consideration by the court and that when it is not in the juvenile's best interest to be returned home, the juvenile will be placed in a safe, permanent home within a reasonable amount of time. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-140, s. 5.)

<p>How the proposal aligns w/ recommendations from other bodies. (Other local agencies, Governor’s Task Force, community organizations, etc…)</p>	<p>The 2022 Annual Report of Durham’s Community Child Protective Team/Child Fatality Prevention, which includes representation from and has oversight over Durham DSS, GAL, and the A/N/D Court, includes recommendations for improving A/N/D hearing scheduling, improving support for DSS staff to reduce burn-out and turn-over, and increasing support for families, especially immigrant families, to prevent child trauma and reduce the need for DSS intervention, that echo many of our proposals. (See the link below to the full 2022 Annual Report.) The report does not commit DSS to family reunification as a central goal, balanced with child welfare. Nor does it address issues of continuances, legal representation for parents, or needed reforms in the A/N/D system.</p>
<p>Experts Consulted Beyond RT members</p>	<p>Durham Chief Public Defender Dawn Baxton and a roundtable of assistant parent defenders and contracted parent defenders Durham Chief Judge Clayton Jones Durham County Criminal Justice Resource Center Orange County Criminal Justice Resource Center, Caitlin Fenhagan Chief Parent Defender Wendy Sotolongo Assistant Parent Defender Annick Lenoir-Peek UNC School of Government Attorney Timothy Heinle Senator Sydney Batch Wilson Center at Duke Law School Roundtable Participants Duke Law Professor Crystal Grant Duke Law Professor Allison Korn UNC Law Professor Barbara Fedders UNC Law Professor Maxine Eichner Christy Malott, GAL attorney advocate, CCPT/CFPT CJRC staff who have worked with the CLS RT: Kelly Andrews, Renee Shaw Local defense attorneys who have worked with the CLS RT: Elizabeth Simpson, Libra Stephens. Anonymous parents, foster caregivers, attorneys, guardian ad litem volunteers, current social workers, and former DSS social workers Anonymous therapists and service providers for foster children</p> <p>Durham DSS declined an invitation to participate</p>
<p>Public Input Gathered. How (includes Listening Sessions)</p>	<p>See above.</p>

Additional Proposal Details

Additional Implementation Details	NA
Additional Budget/Resource Details	NA
Assessment System?	NA. Relevant implementing agencies already have systems of accountability and assessment. Proposed policy changes will also require new systems of accountability and assessment. A general goal of the proposals is to increase public accountability and input into Durham’s DSS, child welfare, A/N/D system.
Mechanism for Accountability, Oversight, Public Input?	See above. Two of the recommendations relate to improved data collection and public information sharing by DSS, GAL, and the A/N/D court, as well as community advisory boards and regular mechanisms for gathering broad public input, such as Listening Sessions, public forums, client exit interviews, etc.
Is there any potential for conflict of interest presently or in the future, based on any task force member’s personal or professional interests or relationship/s? If so, explain.	None

Additional Supporting Documents/Links

The [Durham Child Protective Services](#) website does not include information on guiding principles or policy directives.

[Families First Act](#) (information about changes to federal law to reform child welfare system raising concerns about removal of children from biological families, prioritizing kinship care when removal is necessary, and permitting the use of federal funds to strengthen families of origin)

[University of North Carolina Database on County-Level Data on Child Welfare in North Carolina](#) (includes county-by-county data on child welfare proceedings)

[Abuse, Neglect and Dependency](#) (NC Judicial Branch website explaining the statewide A/N/D system)

[Durham Family Court Rules for A/N/D](#) (last revised 2012)

[Orange/Chatham Rules for A/N/D](#) (date of adoption not noted)

[Wake Rules for A/N/D](#) (last revised 2020)

[Abuse, Neglect, Dependency and Termination of Parental Rights](#) (2019 UNC School of Government manual on the subject. Provides a statewide overview of the system.)

[Abuse, Neglect, Dependency, and Termination of Parental Rights-Office of Indigent Legal Services](#). (A web portal with links to other documents. Including training materials and other information for parental representation in A/N/D court. Also includes a “Case Compendium” link where you can look up case histories from 2014 through 2022.)

[Chapter 7B: North Carolina Juvenile Code: Abuse, Neglect, Dependency](#) (governing statutory regime)

[Emancipate NC Report on DSS Reform](#) (Sept. 2022)

[CCPT/CFPT Annual Report to Durham County Board of Commissioners Reviewing 2022, Submitted March 2023](#). (See p. 8 of the County Commission meeting agenda for the link to the CCPT/CFPT annual report pdf.)

[Senate Bill 625, Child Safety, Welfare, and Permanency Reforms](#) (proposed state statutory amendments under active consideration by NC General Assembly as of June 1, 2023)

[Iowa Peer Partner Approach](#) pairs “Parent Partners” with parents whose children have been removed from the home. They provide social support, offer guidance on how to navigate the process of reunification, and working with social workers and other professionals to ensure the family is getting needed resources.