



Leadership, voice and vision for child welfare in New York State

Council of Family and Child Caring Agencies

Testimony Presented by

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Good afternoon, my name is Kathleen Brady-Stepien and I am the President and CEO of the Council of Family and Child Caring Agencies (COFCCA). Our member agencies include over 100 not-for-profit organizations providing foster care, adoption, family preservation, juvenile justice, and special education services in New York State. On behalf of our member agencies, their more than 55,000 employees all across New York State, and, mostly on behalf of the tens of thousands of children and families that our agencies serve, I thank Chairpersons Krueger and Weinstein for the opportunity to testify before you today.

This year, New York has a real opportunity to ensure meaningful investment in the full continuum of care in child welfare to help children thrive, promote family stability, and strengthen communities. As we engage in a dialogue about the investments needed in our state budget this year, I urge careful consideration of the needs of the thousands of children and families our programs serve through the child welfare system. Attached to my testimony you will find some recent profiles of children and youth served in our programs, along with descriptions of the individualized support and services the hard-working staff working tirelessly each day to support them provide. We must ensure that the final state budget includes investments in our child welfare workforce, community-based supports and services, and thoughtful policy solutions to challenges nonprofit child welfare programs currently face.



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I want to thank the legislature for their continued support of children and youth, especially Assembly Member Hevesi and Senator Brisport and all those who have helped to advance the Children and Families Reinvestment Act (CFRA). The Act puts forth a vision for meaningful change for children in this state— from working to change the systemic factors such as poverty that can lead to child welfare involvement in the first place, ensuring that those families that have experienced child welfare involvement can access needed care, supports, and services; and investing in future success of those transitioning out of care.

COFCCA Budget Request Summary:

The Council of Family and Child Caring Agencies (COFCCA) Supports:

- Full Funding of the Maximum State Aid Rate (MSAR) for the remainder of the foster care programs' fiscal year (April 1-June 30, 2023).
- Restoration of the Maximum State Aid Rate (MSAR) methodology to restore a predictable funding mechanism for supporting children and youth in foster care.
- An expanded and improved Human Services Cost of Living Adjustment (COLA) which:
 - Grows consistent with the Consumer Price Index, this year at 8.5%; and
 - Ensures equitable investment across the human services workforce by including prevention workers and health home care managers.
- The Children and Families Reinvestment Act, in particular:
 - Investments in foster care workforce salaries in response to inflation and the rising minimum wage to ensure the sector has the workforce needed to care for our most vulnerable children and youth as proposed in S.3101 (Brisport) /A.3411 (Darling).
 - Increased funding for the Child Welfare Worker Incentive Scholarship Program and the NYS Child Welfare Worker Loan Forgiveness Incentive Program by increasing the funding for these programs to \$1 million each, to create meaningful career pathways in child welfare.
 - Increased prevention funding to support families safely remaining together: COFCCA urges the state to increase reimbursement to counties for uncapped prevention investment, to 75%, as proposed in A.2807 (Hevesi).
 - Increasing the child welfare housing subsidy to support families and older youth in foster care as proposed in A.2525 (Hevesi) and S. 2038-A (Brisport).
 - Investments in Kinship Guardian Assistance Program (KinGAP) outside of the Foster Care Block Grant.
- Provision of State-only Medicaid funding to support the care and services of children and youth in foster care residential settings that are deemed to be IMDs until there is a federal solution providing federal matching funds for services provided to this population.
- Creation of a Child Victims Act Settlement Fund as proposed in A.1279 (Lunsford) to assist with judgements or settlements issued against school districts and Voluntary Foster Care Agencies in



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cases where there is no insurance coverage, and where payment would negatively impact the existing population or services and the agency's mission.

- Increased funding for the Foster Youth College Success Initiative to \$10 million.

Supporting Children and Youth in Foster Care

This year, resources were diminished for caring for children and youth in foster care, as well as for the hard-working staff in these programs. According to the Office of Children and Family Services (OCFS), this was due to statutory language in last year's budget implementing the human services COLA, that limited the ability for the state to set foster care rates as they have for decades.

Funding for foster care programs is not "lined out" in the budget but instead set through an administrative state-set rate between OCFS and DOB, called the Maximum State Aid Rate (MSAR). While the Legislature intended the 5.4% COLA to be added to the MSAR, the exact opposite occurred. Without any forewarning to the voluntary foster care providers or to the Legislature, OCFS notified providers in July 2022, that the MSAR formula utilized for decades would not be applied to the current rate year (July 1, 2022- June 30, 2023), and that the only growth providers would receive in their rates is the 5.4% COLA (with no other ability to access growth in recognition of rising inflation). Further, when applying the 5.4% COLA to MSARs, OCFS first subtracted out the prior year COLA of 1%, so that these providers only saw a 4.4% COLA applied to their rates.

Today, New York's foster care programs do not know what their rates will be as of April 1, 2023, due to the state's actions in setting aside the MSAR methodology and the treatment by the state of the previous year's 1% COLA—dropping it out of the calculation before applying the 5.4% growth in the middle of the rate year. This means for the first time, these providers are at significant risk of a reduction in the daily rate they are paid for their programs beginning April 1st.

- **COFCCA is requesting that the Human Services COLA is fully funded for the remainder of our foster care programs' fiscal year (April 1-June 30, 2023), and requests the legislature's support in ensuring a return to their rate-setting system so that these programs have predictable funding as they continue to do the vital work of caring for children and youth in foster care.**

While we appreciate clarifying language that was added in the Executive Budget to restore the ability for OCFS to provide for additional increases outside of the COLA, we do not as of yet have information on any increases that may be provided and what the rates will be.

Investing in the Human Services Workforce



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Governor Hochul has recognized the human services sector including some child welfare staff and programs with a 2.5% cost of living adjustment in her Executive Budget proposal. Programs are contending with rising costs well beyond a 2.5% increase—this year, the consumer price index was 8.5%. Therefore, we need an 8.5% Human Services COLA. Programs need to see the full 8.5% investment in order to keep up with ever-increasing costs, and to achieve meaningful staff salary increases.

- **COFCCA strongly supports increases to the Human Services COLA, consistent with the Consumer Price Index- this year at 8.5%.**

In addition, resources that come through the state budget process must be spread equitably across human services programs. We must finally address the workforce and programs that have historically been left out of the COLA. Every day in New York, prevention services staff work tirelessly alongside children and families in New York's child welfare programs to connect families to needed resources and supports such as housing, food, clothing, mental health, behavioral health, and medical services, in order to keep their families safe, healthy, and together. Health Home Care Managers serving children engage children and their families in individualized plans of care to promote children's health and well-being. Despite their important role in providing human services, prevention programs and health home care managers serving children are not included in the proposed COLA. An investment in the prevention programs is also an investment in families, and in promoting fewer out of home placements of children. An investment in health home care management for children is an investment in the health and wellbeing of children all across the state.

- **COFCCA recommends that the Human Services COLA include prevention programs and health home care management programs serving children.**

As essential workers throughout the pandemic, child welfare staff continued to show up every day and supported children, families, and communities. Unfortunately, however, these staff have not received increased support from the state. For instance, pandemic related state and federal funding which was provided for workers in sectors overseen by other state agencies (Office of Mental Health and the Office of People with Developmental Disabilities), was not also provided for the Office of Children and Family Services' (OCFS) child welfare programs.

Our COFCCA Workforce Study, conducted every other year, shows that caseworkers in 2020 across child welfare programs (family foster care, prevention, and residential foster care programs) earned an average annual starting salary statewide of \$40,752 with a Bachelor's degree and \$44,802 with a Master's Degree. The differential between these salaries and a comparable state-level position, a NYS Grade 21 salary and fringe, expanded in 2020 to over \$24,000— meaning that a comparable state level worker earns more than \$24,000 more than workers in our settings. The average turnover rate for these workers at the time of our survey was 24%.



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Staffing shortages, vacancies, and turnover all contribute to an incredibly negative outcome for families: the need to begin therapeutic work over and over again every time their worker leaves and a new worker begins.

We cannot continue to under-support the professionals who are doing this critical, challenging work. COFCCA supports the following actions New York State can take to invest in the child welfare workforce supporting families across the state:

Invest in Foster Care Workforce Salaries

The State has made significant progress in reducing the number of youth placed in the foster care system. We have seen a 58% decline in the number of children and youth entering the foster care system statewide in the last 20 years.

As the voluntary agencies, counties, and state work together to facilitate the provision of services in the home and community where possible, we have seen that needs of the population that are being referred to out of home placements are demonstrably more significant. Today in NYS, approximately 15,600 children and youth are in the state's foster care system, approximately 80% of whom are in the care of the nonprofit voluntary foster care agencies.

Current salaries are not competitive for recruitment and retention of staff. In 2020, our front line, child care workers in residential foster care earned an average statewide starting salary of \$30,361—or approximately \$14.60 per hour. Many of our residential care workers, have to hold two jobs to support their families, and as the economy improves, workers are turning elsewhere for higher pay and less stressful jobs. The average turnover rate for these employees was an astounding 49.4%.

Quality in our workforce is directly tied to the quality of care and overall experience for young people in foster care, as they come to develop and rely on relationships with their child care workers and their caseworkers. High worker turnover negatively impacts children, particularly youth in foster care, and it impacts outcomes. Studies in the field show that each time a worker leaves, it may add up to six additional months to a youth's time in foster care.

- **COFCCA strongly supports an infusion of funding to raise salaries for nonprofits' foster care workforce—amounting to a \$17 million annual investment for three years as proposed in S.3101 (Brisport) /A.3411 (Darling).**

We thank the legislature for championing efforts to invest in our foster care workforce salaries to make salaries equitable with public sector, and to make jobs in the non-profit child welfare sector more



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competitive. Increased investment will allow our programs to attract diverse, highly educated and trained candidates, and to reap enormous benefits for the children and youth served.

Provide Meaningful Career Pathways in Child Welfare

Our child welfare staff tell us that in addition to salary increases, they need more support in achieving their higher education goals. We consistently hear from our child welfare workers that although they find the work very challenging, they enjoy what they do and want to continue to grow with our agencies. Many staff in our programs desire to become supervisors or even aspire to be in a senior leadership position such as a program director or a CEO someday; however, they need advanced education degrees to pursue those positions. We also often hear that they begin to look for other jobs when they cannot afford to pay their student loan monthly repayments. We seek a long-term option for supporting the child welfare workforce in their educational goals so we can begin to build a true career pathway for our state's child welfare professionals.

- **COFCCA supports significantly expanding the impact of the NYS Child Welfare Worker Incentive Scholarship Program and the NYS Child Welfare Worker Loan Forgiveness Incentive Programs by increasing the funding for these programs to \$1 million each.**

These programs provide an incentive to current and prospective employees to work in the critical field of child welfare, and support the education and training needed to provide quality care.

Minimum Wage Indexing to Inflation

Governor Hochul has indicated that she is advancing minimum wage increases, including indexing minimum wage to inflation. COFCCA fully supports increasing the minimum wage as it means that families and young people will have the opportunity to become more economically secure.

It is important, however, to note that the minimum wage in the state is currently \$15/hour in NYC, LI, and Westchester, and \$14.20 in ROS. As the difference in salary between our child welfare staff and the minimum wage further compresses without additional resources to address the increases, workers will continue leaving the field.

We must ensure that the state budget both provides resources to support this minimum wage increase in our programs, and also provides for the growing issue of compression (for instance, as above, ensuring that human services programs see an 8.5% COLA and that we see significant state infusion into salaries, in the Darling/Brisport bill).



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Enhancing Community Supports

Prevention programs are proven to work to reduce entry into foster care. A significant number of COFCCA members provide prevention services across the state. The services are tailored to individual family need, and may include connecting families to supports when there is a need for housing, food, clothing, mental health and medical services, and assisting them in getting the resources needed to keep their families safe, healthy, and together.

Through the implementation of the Family First Prevention Services Act (FFPSA), we have an opportunity for the state to make strides toward transforming its child welfare system into one that is intentionally anti-racist, and committed to centering families' self-determination, by strengthening community-based prevention services that meet the needs of New York's diverse communities. The Office of Children and Family Services has recently received federal approval for its prevention plan under the federal Family First Prevention Services Act¹, which will allow for a broader group of families to access prevention services and supports. We strongly support that approach, and we also continue to recommend the following additions to ensure and expand access to these critical services:

- **COFCCA urges the state to increase reimbursement to counties for uncapped prevention to 75% as proposed in A.2807 (Hevesi).**

Since 2002, the state has invested in an open-ended child welfare funding stream which provides an incentive to counties to invest in prevention services, by reimbursing county funds spent on prevention. And it works! As we noted earlier, the investment into prevention services has contributed to a 58% decline in the number of children and youth entering the foster care system statewide (2002 to 2021).

However, since 2008, the state budget has reduced the state share for prevention services to 62%, even though there is a statutory requirement of 65%. The continued cost shift from the state to the local governments, puts a strain on the counties' ability to invest in community-based programs for families and limits the ability for agencies to hire and retain staff to meet the demand for services.

We thank the legislature for championing efforts, as part of the CFRA, to increase the state share to the original level provided under The Child Welfare Reform Act of 1979 of 75%.

Ensuring Continual Federal Financial Participation in Medicaid for Children and Youth in Residential Foster Care

Given that nothing in the federal Family First Prevention Services Act (FFPSA) amended Medicaid "Institution for Mental Disease" (IMD) exclusion statute, according to the Centers for Medicare and

¹ <https://ocfs.ny.gov/main/sppd/docs/FFPSA-Prevention-Plan-2022Feb23.pdf>



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Medicaid Services (CMS), residential foster care facilities (QRTPs) may be classified as IMDs if they serve more than 16 children and youth. As a result, the children and youth placed in a QRTP that is designated an IMD may not be able to access Federal Financial Participation in Medicaid for their medical care (even though children and youth in foster care are categorically eligible for Medicaid).

In late fall 2021, CMS proposed a short-term option for states to temporarily avoid the loss of federal financial participation for this population for two years, in the form of an ability to apply for an 1115 SMI/SED Demonstration waiver. COFCCA has long raised concerns to the Administration in relation to submission of an 1115 SED/SMI waiver for QRTP settings. One of those concerns relates to the restraint and seclusion requirements that would be put into place during the waiver period, which would necessitate additional staffing and significant costs to our residential settings.

The other relates to a requirement that at the end of the two year waiver, according to CMS guidance, the state would have to adhere to a 30-day average and a 60-day maximum length of stay for any children and youth in residential foster care QRTPs that are IMDs. While the state has not shared the current length of stay averages for children and youth in residential foster care, we know from a NYS DOH/OCFS² presentation from June 2016 that at that time the average length of stay in foster care statewide was 290 days, and 334 days in NYC. This is more than nine times what the federal government will require in two years at the end of the waiver period.

The Governor's budget proposal sets the state further down its path on submission of a waiver, including \$17 million which appears to be for addressing costs the staffing requirements during the waiver period. The 1115 SMI/SED waiver option is not a long-term solution for the children and youth in foster care in NYS.

- **COFCCA maintains the position that the state must commit state-only Medicaid funding—as other states: Wisconsin, Minnesota, Indiana have done—to continue supporting the needs of children and youth in residential foster care settings until there is a federal solution providing federal matching funds for services provided to this population. In order to best achieve the goals of the Family First Prevention Services Act, it is essential that children and youth in QRTPs have continued, consistent federal support of their health care costs.**

Ensuring Justice for Child Victims

The Child Victims Act (CVA) was created as a mechanism to give victims a voice and an avenue to seek justice. Unfortunately, many cases—especially those 30, 40, or 50 years old or older—do not have any

²https://www.health.ny.gov/health_care/medicaid/program/medicaid_health_homes/webinars/docs/2016/hhsc_webinar_6_1_2016.pdf



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identified insurance coverage for a victim to be able to access a judgment or settlement. Even where a policy has been identified, policy limits from decades-old policies may not be sufficient to fund 2023 settlements.

It is inequitable for a victim's compensation to depend on luck- whether a decades-old insurance policy can be located- rather than the substance of their case.

Additionally, most Child Welfare providers have no ability to fund large recoveries outside of such insurance coverage, which means bankruptcies may inevitably result from Child Victim's Act cases.

- **COFCCA supports legislation to Create a Child Victims Act Settlement Fund as proposed in A.1279 (Lunsford) to assist with judgements or settlements issued against school districts and Voluntary Foster Care Agencies in cases where there is no insurance coverage, and where payment would negatively impact the existing population or services and the agency's mission.**

A Child Victims Act Settlement Fund is an essential path to getting access to justice for victims who would otherwise be unable to realize financial awards due to lack of agency resources while also supporting providers' continued ability to meet the demands of New York's children and families in need.

Supporting Families and Youth

Increase Support for the Foster Youth College Success Initiative

New York State has committed funding in the budget for several years to assist youth in foster care as they pursue higher education. We have watched with great joy each year as our young people in foster care enter college or university through the support of the Foster Youth College Success Initiative (FYCSI). In the last several years, this initiative has supported more than 2,000 young people in our state during their college journeys. These young people have attended more than 100 NYS colleges and universities and they are achieving success through post-secondary education. The FYCSI program uniquely provides necessary social, academic, and financial supports to ensure that barriers to opportunity for the foster care population are mitigated.

- COFCCA supports increasing investment in the Foster Youth College Success Initiative to \$10 million to continue to assist foster youth in achieving their goals.

Expand the Child Welfare Housing Subsidy



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The goal of the child welfare housing subsidy program is to stabilize housing for families and prevent family separation and child removals, expedite reunification of children in foster care, and help youth aging out of foster care who face high risk of housing instability and homelessness. The program has been providing just \$300 a month since its creation in 1988 while the expense of rent, utilities and cost of living in New York State has increased exponentially.

- **COFCCA supports raising the value of the child welfare housing subsidy to support families and older youth in foster care from \$300 to \$725 as proposed in A.2525 (Hevesi) and S. 2038-A (Brisport).**

Invest in Kinship

- **COFCCA recommends providing an independent state funding line for kinship caregivers, by investing in Kinship Guardian Assistance Program (KinGAP) outside of the Foster Care Block Grant.**

The Kinship Guardianship Assistance Program (KinGAP) provides long-term support so children can leave foster care and live with kin who can provide them with crucial family supports. As more children in foster care are placed with relatives, KinGAP will become an increasingly important resource for achieving permanency. KinGAP is one proven strategy to reduce the over-representation of Black and brown New York children in foster care and to strengthen families. There is a clear opportunity to expand the use of KinGAP across the state. To do this, New York should fund KinGAP outside of the Foster Care Block Grant.

Conclusion

In closing, I want to emphasize that New York has a real opportunity this year to ensure meaningful investment in the full continuum of care in child welfare that help children thrive, promote family stability, and strengthen communities. I look forward to working with the legislature to support initiatives that accomplish these investments, and I am happy to answer any questions you may have.



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Attachment A: Youth Profiles

The following are unidentified profiles of young people recently served in our agencies' foster care programs across the state, along with descriptions of the individualized support and services the hard-working staff working tirelessly each day to support them provide.

Youth A is a transgender female who was transferred from one residential foster care program to another in August of 2022. The transition from one program to another related to juvenile delinquent charges but also her struggles with emotional regulation, her gender identity, physical and verbal aggression, and lack of age appropriate skills such as brushing her teeth and hair. She has a lower than average IQ which also makes maintaining behavior in classroom settings difficult. Youth A was in need of intensive therapeutic services, a structured daily plan, extensive skill building, and integrated specialized educational services.

Youth B is a 16 year old girl who entered residential placement in April of 2021 due to neglect, and her family's inability to care for themselves or for her. Youth B often feels suicidal and engages in self-harming behavior on a regular basis. At the time of placement she was also estranged from her family and there was an order of protection in place due to neglect. Youth B is receiving counseling services for twice the period that is typically allocated and crisis management when needed. As she progressed, family therapy has been added where her parents can work on the estranged relationship. Her father is also engaged in individual and family counseling. Youth B has made progress and is now able to have face to face family visitation, reports less instances of feeling suicidal and has gone the longest stretch without self-harming behaviors.

Youth C is a 15 year old child who has been in care since she was a young child. Prior to entering residential care in November of 2018, her needs were high, as she required intensive mental health support and considerable accommodations due to her low IQ. At the time of admission she was expressing physical aggression, bullying, suicidal ideation, and self-harm. Youth C has numerous plans of action in which her clinicians have created a therapeutic treatment plan that involves play but also multiple sessions per week and her residential team utilizes an individual plan for redirection in order to address her frustrations and behaviors before she escalates to prevent self-harm and physical aggression. Her team is also working on establishing community resources, re-establishing a relationship with an estranged sibling, and are hopeful to find her an appropriate foster family.

Youth D is a 15 year old child that previously had two failed residential foster care placements and numerous failed family foster placements. Both parents had their parental rights terminated at an early age. Youth D struggles with aggression, self-harming behaviors and school refusals. Youth D requires 1:1 staffing to be successful in working on building



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relationships and managing her feelings. It has taken an extreme amount of time for staff and counselors to be able to get Youth D to open up and to assist with her goals.

Twins age 3 required care and stabilization that foster families could not provide due to the extreme domestic violence, neglect and trauma experienced during their young lives. When the twins entered care, they were scared and did not know how to interact with each other and were unable to vocalize to other how to get their needs met. Some of the behaviors the twins were exhibiting included biting themselves and others, head banging and severe tantrums. Their foster family was committed to having the twins return but needed guidance on how to care for them appropriately. A routine and training models were put in place and the twins were able to return to their foster family within a month and have successfully remained in home while working on permanency back to their biological mother.

Youth E is a 14 year boy with sexual charges against younger family members. Due to the charges and the age of the victims all visitation in the home was suspended. Youth E was enrolled in the sexual behavior program. Safety concerns were identified through group therapy and individual therapy. Through therapy Youth E was able to identify previous trauma and was able to process the information with his therapist. Youth E has been discharged and is now living with a family member while receiving outpatient services in the home and undergoing family therapy with his parents.

Youth F is a 16 year old girl who entered residential foster care after being a witness to domestic violence, sexual abuse, and neglect. She was extremely thin and had not left the house in over the 2 years prior to entering residential care. Youth F participates in weekly group therapies and has been able to disclose trauma that she has gone through. Staff have been able to teach her independent living skills, hygiene, coping skills and boundaries.

Youth G is a 12 year old girl who entered this current placement after another program was closing following 13 disrupted foster home placements. She has verbal and cognitive limitations that present impulsive and aggressive behaviors which include head banging, spitting, hitting, and frequent efforts to run out of program. She does not have a psychiatric diagnosis and her age prevents other placement options. As a result, she continues to have frequent behavioral disruptions while in care and is waiting for an alternative placement.

Youth H is a 13 year old boy who is diagnosed with disruptive mood dysregulation disorder and ADHD. He and his sister were previously in a foster home, following a psychiatric hospital placement. Youth H also was placed into an OMH residential treatment facility but was not able to stay when his behavior escalated, he became violent, and was no longer progressing socially and emotionally. Since Youth H was placed into the current placement, he has a history of frequent psychiatric ER visits and has been admitted 8 times. Upon release from the hospital



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and return to residential his behavior escalates and requires an all hands on response to de-escalate. Youth H is currently hospitalized following an attempt to jump out of a moving car.

Youth I is a young girl with severe psychiatric needs who was referred following an acute psychiatric admission. While in residential care she was admitted twice to the hospital. She required 1:1 staffing due to attempts to leave program at every opportunity, even after removing shoes, and frequently cheeks medication that led to her decompensating. Youth I was eventually admitted to a state hospital.

Youth J is a young boy who was referred to a downstate residential program from an upstate county after having been hospitalized several times. The local hospital was unable to provide proper medication management and lacked community supports which resulted in his parents being unable to manage him at home and he was referred to the LDSS. Youth J's behavior needs are significant and require intensive supervision, as he has a documented history of making realistic, credible homicidal threats.