STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

NICK LYON
INTERIM DIRECTOR

February 27, 2015

The Honorable Peter MacGregor, Chair
Senate Appropriations Subcommittee on DHS
Michigan State Senate
Lansing, Michigan 48933

The Honorable Earl Poleski, Chair
House Appropriations Subcommittee on DHS
Michigan House of Representatives
Lansing, Michigan 48933

Dear Senator MacGregor and Representative Poleski:

This report is provided pursuant to the Department of Human Services' (DHS') Fiscal Year 2015 Appropriations Act, PA 252 of 2014, Article X, Section 592(2). Section 592(1) requires that DHS conduct a workgroup to assess the feasibility of reorganizing all child welfare and juvenile justice functions within the department to an autonomous agency through a Type I transfer. The attached report describes the findings of the workgroup.

If you have any questions, please contact Steve Yager, Children's Services Administration director, at (517) 241-9859.

Sincerely,

Susan Kangas

Susan Kangas
Chief Financial Officer

Attachment: Preliminary Feasibility Assessment: Type I Transfer

cc: Senate and House Appropriations Subcommittees on DHS
Senate and House Fiscal Agencies
Senate and House Policy Offices
State Budget Director

State of Michigan

Preliminary Feasibility Assessment

Department of Human Services

Type I Transfer of

Child Welfare & Juvenile Justice

March 2015

I. Introduction

This report relates to the Department of Human Services' (DHS') Fiscal Year 2015 Appropriations Act, PA 252 of 2014, Article X, Section 592, which states:

> (1) *The department shall conduct a workgroup to assess the feasibility of reorganizing all Child Welfare and Juvenile Justice functions within the department to an autonomous agency through a Type I transfer under the executive organization act of 1965, 1965 PA 380, MCL 16.101 to 16.608.*
> (2) *By March 1, 2015, the department shall provide a report on the findings of the workgroup described in this section to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies and policy offices, and the state budget director.*

The department established a Type I Transfer workgroup that met regularly to explore the feasibility and associated implications of such reorganization. Meetings and related work in this area began in August 2014 and continued through late January 2015. Transfers are categorized into three types: Type I Transfer; Type II Transfer; and Type III Transfer. Under a Type I Transfer, an agency is merely identified as being within a particular department; the agency continues to perform its functions as prescribed by statute. Under a Type II assignment, the agency loses autonomous control of its functions – "all its statutory authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement [are] transferred to that principal department."[1] Under a Type III transfer, the agency is abolished.

A Type I Transfer means that the transferred agency (the Type I agency) is transferred intact and retains its statutory powers, duties, and functions. The Type I agency exercises its statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards and adjudication independently of the head of the department of the principal agency that it has been transferred under. However, the director of the principal agency administers and supervises the budget, procurement, and management functions of the Type I agency. The Michigan Attorney General's Office has opined that except for the enumerated areas of "rule making, licensing and registration" designated in the third sentence of subsection 103(a), the principal department's authority is paramount with regard to those bodies subject to a Type I transfer.[2]

The goal of this feasibility assessment is to present whether child welfare and juvenile justice programming would be able to adhere to its vision and mission, continue to administer the Title IV-E State Plan as required by the federal government, and achieve expected performance outcomes if a Type I agency was created. As such, this report is laid out according to the critical areas that may be impacted in the event that child welfare and juvenile justice programming

[1] Executive Organization Act of 1965, Act 380: Chapter 1 General Provisions, section 16.103 (b)
[2] OAG, 1965-1966, No 4468, p 291 (May 24, 1966)

does become a Type I agency under the department. These critical areas include the Children's Services Administration Mission and Vision, Organizational/Resource Sufficiency, Federal Compliance, Modified Settlement Agreement Compliance and Exit, and Financial Resources.

II. Organizational Structure

DHS had 11,486 employees in fiscal year 2014. Nearly 92 percent of staff is located in local offices as family independence specialists, eligibility specialists, child and adult service workers, disability examiners, clerical, licensing and investigative staff or residential care facilities employees. The remaining employees provide management and support for field staff, provide support services such as data processing, policy development, personnel, financial management, and operate central office administered programs.

The function of each of the department's organizational units as they relate to the administration of the Title IV-E foster care maintenance, adoption assistance, and guardianship assistance programs is outlined below:

Executive Offices of Director and Chief Deputy Director: oversee all programs administered by the department. The director and chief deputy director review and approve the Title IV-E State Plan.

Financial Services Administration: responsible for the development of the annual budget, research, evaluation and analysis of agency policy in all program areas, the financial management of the agency, managing all contracts into which the agency enters, and general business services procured for and provided by the agency. The Chief Financial Officer oversees the entire Financial Services Administration. The following offices are included within this administration:

- Accounting Division: performs the cost allocation process and federal claim activities.
- Budget Division: provides consultation to other administrative units within DHS related to budget development, coordination, monitoring and the proper use of grants and federal funding streams.
- Office of Contracts & Purchasing: responsible for the procurement of goods and services.

Bureau of Child Support: administers the child support program for the department and works in conjunction with Children's Services Administration to ensure federal regulations related to parent locator services and other administrative activities supporting the Title IV-E program are implemented statewide and supported in policy application.

Children's Services Administration (CSA): provides policy development and direction for departmental programs directed primarily at children and their families. Administration of the Title IV-E program for the state is the direct responsibility of this administration. The director of the Children's Services Administration supervises all child welfare programs, including Title IV-E, for the department. Michigan's Title IV-E State Plan incorporates the programming and plans commitments from CSA divisions including:

- Office of Child Welfare Policy and Program: responsible for all child welfare policy and program development for the state. There are distinct units within the office that implement all federal regulations related to child welfare.

- Juvenile Justice Programs: provides executive policy and procedural direction to all juvenile justice services administered by the department.

- Division of Continuous Quality Improvement: ensures that consistent, high-quality services are delivered to the children and families by using a statewide quality assurance and improvement system to evaluate effectiveness. The Child Welfare Data Management Unit (DMU), responsible for federal data reporting and management data, is also located within this division.

- Federal Compliance Division: manages the Title IV-E State Plan and assurances of federal compliance with the approved plan and federal regulations. The office is responsible for ensuring other divisions and offices within DHS follow established policy and program directions and that federal claim practices comply with federal regulations. It also administers all payments and the Child Care Fund.

- Bureau of Children and Adult Licensing (BCAL) – Child Welfare Licensing Division: conducts onsite evaluations to determine compliance with state law, contracts, and licensing rules; consults with child welfare organizations to improve the quality of service; and investigates complaints alleging administrative rule or statute violations. BCAL also ensures the homes and facilities where children are placed and are eligible for Title IV-E payments are appropriately licensed to conform to Title IV-E regulations.

- Child Welfare Field Operations Administration/Business Service Centers: provides executive direction and oversight to all local DHS offices and contracted child welfare placement agencies related to implementation of policy and programming. This includes areas such as staffing and funding allocation and oversight from multiple fund sources. Local DHS office oversight is addressed by the regional Business Service Centers and Child Welfare Field Operations oversees Michigan's contracted child welfare agencies. Additionally, Child Welfare Field Operations is responsible for the administration of the Adoption Subsidy, Subsidized Guardianship, and Medical Subsidy programs.

- Michigan Statewide Automated Child Welfare Information System (MiSACWIS): develops, implements, and monitors the MiSACWIS application for all child welfare cases for DHS and the private agencies.

- Children's Trust Fund (CTF): provides grants for direct services and local child abuse and neglect prevention councils that serve children and families before involvement with the DHS Children's Protective Services Division. CTF's purpose is to prevent child abuse and raise awareness of prevention through community-based programs.

Organizational charts for the Department and the Children's Services Administration are available for review in the appendix of this report.

III. Context

A. Modified Settlement Agreement

In August 2006, Children's Rights, Inc., a national advocacy group, filed a class action lawsuit in federal court seeking to reform Michigan's foster care system. The complaint alleged that the state violated the constitutional and federal laws by failing to: move children quickly into safe, stable and permanent homes, provide children with adequate medical, dental and mental health services, provide safe and stable foster homes, and prepare children who age out of the foster care system. The complaint also alleged that Michigan's child welfare system was poorly managed, underfunded, and insufficiently staffed which put children at risk of harm.

On July 3, 2008, Michigan's Governor Jennifer Granholm signed a Consent Decree which was approved in federal court on October 24, 2008. Following four monitoring periods of the Consent Decree, current Governor Rick Snyder took office and newly appointed DHS management began several months of negotiations with Children's Rights, Inc. to refine and update the original Consent Decree. On July 18, 2011, a Modified Settlement Agreement (MSA) and court order was approved by the federal court.

Michigan's progress in complying with the MSA continues to be overseen by the court-appointed monitors. The monitors are responsible to conduct verification activities on an ongoing basis and report to the federal court on Michigan's progress and compliance with the requirements of the MSA.

On December 2, 2014, DHS filed a motion in U.S. District Court's Eastern District of Michigan seeking to dissolve the MSA. The premise provided was that many of the requirements in the MSA had been addressed and the department's progress demonstrates that the constitutional rights of plaintiffs in the class action lawsuit were no longer being violated. DHS withdrew the motion on January 29, 2015, after U.S. District Judge Nancy Edmunds encouraged DHS to meet with the plaintiffs and negotiate a less stringent settlement agreement rather than move forward with the motion.

B. Budget

Department-wide fiscal year (FY) 2014 expenditures totaled $5.80 billion. The Children's Services Administration's FY 2014 expenditures totaled $968.2 million to support eligible child protective, family preservation, foster care, adoption and juvenile justice services.

C. Facilities

The DHS central administrative offices are located in Lansing. Direct services to clients are available statewide through a county office network. The department's direct service offices that accept applications for and provide case management of cash, medical and emergency assistance benefit programs are administered in local county offices. Child welfare program staff is co-located in county offices with payment program staff. In all but the six bifurcated urban county offices[3], direct-service offices share both administrative support staff and management staff[4] across programs.

Office space, equipment and fleet vehicles are shared among programs. These offices also share funding for locally based contracts, services, emergency client needs, equipment, supplies, etc. for all programs housed within that office. A separation of payments programming and child welfare will require decisions to be made with regard to how this money would be allocated and spent in the future. Five Business Service Centers are located throughout the state to provide internal service and support to local offices in areas such as, but not limited to, accounting, contracting, and human resources.

The Children's Services Administration, through its organizational Juvenile Justice Program unit, oversees three juvenile justice facilities: Maxey, Shawono, and Bay Pines. A Type I transfer would not impact these facilities.

IV. Feasibility Assessment

A. Children's Services Administration Mission and Vision

A transfer of child welfare and juvenile justice programming into a Type I agency is not anticipated to change the Children's Services Administration's ability to uphold the administration's mission and vision.

B. Organizational/Resource Sufficiency

Currently, there are areas of the department where staff managerial roles overlap multiple programs. These are primarily found within the local county DHS offices, Child Welfare

[3] The urban counties of Wayne, Kent, Macomb, Oakland, Genesee, and Ingham have a bifurcated local office reporting structure in which child welfare and Juvenile Justice are separate from payment programs.

[4] Normally second level management and above with the exception of smaller or more rural counties.

Licensing and Disciplinary Action Unit and the Office of Workforce Development and Training. Additionally, there may be program overlap for field workers from smaller or rural counties.

In the event a Type I agency is created, the following would need to be addressed:

- A specific protocol regarding the hierarchy, or a separation of staff roles into multiple positions as otherwise there might be field staff with multiple supervisors, depending upon the program.
- The organizational structure of local offices may be impacted as currently administrative support and second line managers and other management positions are shared among all DHS programs in the majority of county offices.[5]
- Additional funds could be needed if child welfare and juvenile justice administrative support and higher management roles are not shared with the principal agency within local settings.

Physical Work Locations

Facilities may have to be reviewed to determine if there is a need to separate the current programming locations from current local office physical configurations. Otherwise, new physical locations may need to be located, developed and implemented for child welfare and juvenile justice programming. The DHS Organizational Services director stated, *"This would have a major impact on our fiscal cost in the current budget. Additional funds would need to be allocated to accommodate this no matter what decision is made."*

The following issues may warrant further analysis:

- Work locations for DHS central office staff that are out-stationed in local offices other than Cadillac Place in Detroit or Lansing's Grand Tower[6].
- Whether child welfare and juvenile justice field staff would have separate office locations or be maintained in the current DHS local office structure. If local office space is not bifurcated, it may be necessary to estimate the cost of securing and maintaining separate physical office space for child welfare and juvenile justice programming.

C. Federal Compliance

In the event a Type I agency is created, there may need to be evaluation regarding who is to retain ownership of financial policy and the Title IV-E State Plan. Relative to federal guidelines, the principal agency may need to remain the Title IV-E agency and 'own' the Title IV-E State Plans. The state plans require specific assurances and a bifurcated department might not be able to separate the plan into several smaller state plans.[7] Ultimately, the department that owns the state plan has total authority to enforce the state plan and careful consideration must be given to potential programmatic implications:

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[5] The urban counties of Wayne, Kent, Macomb, Oakland, Genesee, and Ingham already have a bifurcated local office reporting structure in which child welfare and juvenile justice are separate from payment programs.
[6] For example: Permanency Resource Monitors, Continuous Quality Improvement Analysts, etc.
[7] State Plan Certification Requirements: http://www.ssa.gov/OP_Home/ssact/title04/0402.htm

- In the instance the Type I agency desires a change in policy contained within the state plan, approvals might flow through the principal agency before it could be implemented or in contrast, the principal agency could direct specific programming changes due to an ability to draw down Title IV-E funding, regardless of the Type I agency's recommendation or interest.

D. Financial

Funding Sources

Approximately fifteen federal funding sources are used to support children's services activities; these sources are identified below. These funding sources are charged for eligible activities according to the department's federally required cost allocation plan. In addition, children's services programming and staffing are supported by state general fund/general purpose dollars, local funding, and private funding from various sources.

Temporary Assistance for Needy Families (TANF)
Title IV-B – Part 1
Title IV-B – Part 2
Title IV-E
Child Care and Development Fund (CCDF)
Title XIX (Medicaid)
Title XX (Social Services Block Grant)
Federal Child Abuse/Neglect
Juvenile Justice Demonstration Grants
Juvenile Accountability Block Grants
Children's Justice (Governor's Task Force)
Title IV-D
Supplemental Nutrition Assistance Program (SNAP)
Low Income Home Energy Assistance Program (LIHEAP)
Refugee

A Type I agency transfer may impact use of TANF, Title IV-E, and Title XX funds. States can receive federal dollars for child welfare activities from a variety of sources, some dedicated to child welfare (e.g. Titles IV-B and IV-E of the Social Security Act), while others are designated for broader purposes (e.g. Medicaid, SSBG, TANF, Supplemental Security income and Social Security Benefits, and a host of other grants and awards). The latter group of fund sources crosses both child welfare and assistance payments areas.

Further analysis may be needed regarding whether creation of a child welfare/juvenile justice Type I agency could:

- Endanger access to federal funds by either the principal or the Type I agency.

- Usurp the ability of Michigan's child welfare system to make autonomous decisions with regard to identified programming and staffing needs.
- Result in competition for the same funds allocated by the legislature if there is a lack of coordination or communication between the child welfare agency and principal agency.

Grants

Federal reporting for grants and funding may continue to be completed via collaboration between a child welfare/juvenile justice Type I agency and the department's budget, federal compliance and auditor offices. Currently, the Budget Division of the DHS Financial Services Administration is responsible for coordinating the application, submission, management and administration of grants received by the department. This is the division where official grant-related documents are stored and tracked. In the event a Type I agency is created, it might need to be determined who the authorized official will be for grants associated with these programs.

Currently, the DHS Director 'owns' all grants for the department, and Financial Services Administration reports that a change of child welfare and/or juvenile justice grant ownership might have some implications for the department's overall budgeting, cost allocation and grant management process. If a Type I agency is created, the following areas may need consideration:

- Budget Deficit Coverage: coordination would be critical between the principal and child welfare agency to ensure that any potential budget reductions to child welfare services would not impact essential and mandated child welfare services. A protocol might be needed to communicate local and central office staffing and funding needs.
- Other fiscal or logistical implications resulting from a change of the authorized official on current child welfare and/or juvenile justice-associated grants.

V. Overall Feasibility: Summary and Conclusion

Area of Agency	Overall Feasibility*	Considerations for Feasibility Improvement
CSA Mission/Vision	**Feasible**	n/a
Organizational/ Resource Sufficiency	**Feasible**	CSA will either need to continue sharing administrative & supervisory support **OR** funding will need to be allocated for separate staffing/positions. A specific protocol regarding the hierarchy may be needed, or a separation of staff roles into multiple positions as otherwise there might be field staff with multiple supervisors, depending upon the program.
Federal Compliance	**Feasible**	Possibly creates competition for same funds and resources needed to satisfy Title IV-E State Plan and Modified Settlement Agreement commitments.
Financial	**Feasible**	Expected to result in increased cost to either the principal or the Type I agency. Could usurp the ability of Type I agency to make autonomous decisions related to programming/staffing needs. Possibly creates competition for same funds allocated by the legislature. Budget Deficit Coverage might be affected. May be fiscal/logistical implications if change of the authorized official on current child welfare and/or juvenile justice-associated grants.
Overall Conclusion	**Feasible**	May impact critical sharing of information and create 'silos', which is in conflict with Gubernatorial administration's vision related to interagency collaboration toward broader goals.

** Ratings are Feasible, Not Feasible, or Unsure*

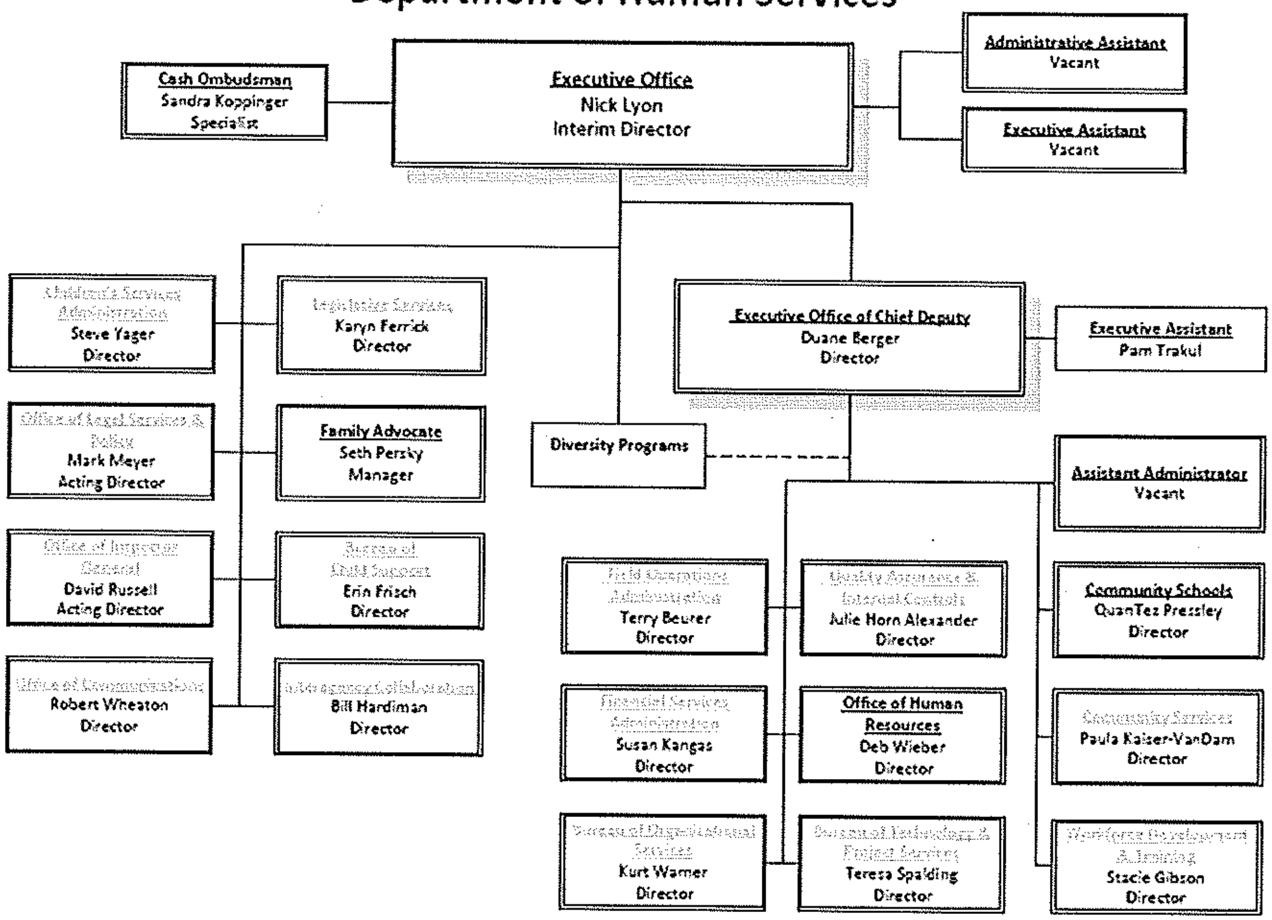
Conclusion and Recommendation

Although a Type 1 transfer of child welfare and juvenile justice programming to an autonomous agency is likely feasible, such reorganization is not recommended for the following key reasons:

- Potential to create a silo effect in funding streams and service delivery, contrary to the Governor's vision for state government.
- Potential to create competition for funding and staffing resources between the principal agency and Type I transfer agency that are necessary to meet federal requirements and Modified Settlement Agreement commitments.
- May create additional programmatic and funding challenges for the Title IV-E agency.

APPENDIX

Department of Human Services



Thursday, January 29, 2015

Department of Human Services
Children's Services Administration
01-09-15