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... Jur Opinion: Facing down foster care cuts

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Wednesday, December 22, 2010

A lawsuit filed in U.S. District Court in Springfield this year has brought the issue of foster child abuse into the spotlight in Massachusetts. The suit alleges that the state's foster care system breeds abuse of its young clients.

The suit, filed in April by a New York City nonprofit called Children's Rights, details the plight of six Massachusetts foster children who were allegedly subjected to emotional, physical and sexual abuse in foster homes, group homes and treatment facilities.

The allegations are serious. None of the approximately 8,500 foster children in Massachusetts under the scrutiny and protection of social workers with the Department of Children and Families should be subject to mistreatment.

While the suit may help improve care, its assertions, based on national comparisons, could be misleading, according to the Department of Children and Families.

The lawsuit says the incidence of abuse in Massachusetts foster care is among the highest in the country. The department suggests that this conclusion may stem from the fact that the state uses a lower threshold than most to trigger investigations in reports of abuse.

Massachusetts is one of eight states that investigates allegations based on a "reasonable cause" standard. Other states use a higher standards of "credible evidence" or "beyond a reasonable doubt," notes the department's Alison R. Goodwin.

Those differences in standards mean Massachusetts responds to reports of abuse more readily than many other states, a fact that skews the state-to-state numbers that Children's Rights is trying to compare.

The result is that Massachusetts looks as though it has a foster system that breeds higher abuse rates.

Lawyers for the department asked U.S. District Court Judge Michael Ponsor at a hearing last month to throw out the suit because the juvenile courts are already dealing with charges stemming from the allegations.

We think it is a good thing that the state is attempting to prosecute instances of actual abuse and hope Massachusetts' child protective system takes the lawsuit as a call to be more proactive in protecting children in its care.

The lawsuit in Massachusetts, similar to pending lawsuits in Rhode Island and Oklahoma, is an important reminder that foster children, no matter where they live, face the highest risk for abuse of any children in the United States.

National foster care advocate Daniel Heimpel noted at a foster care conference in Holyoke last month that Massachusetts has been in the forefront when it comes to some foster care reforms.

The state should be commended for providing tuition waivers to foster children that help them attend

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state colleges. Massachusetts has also been progressive in creating provisions that allow foster children who are 18 to remain in the system for four more years, should they choose to do so.

It is an important option for these technically legal adults, some of whom may not be ready to go it alone.

One of the biggest challenges to foster care in this state and others is shrinking budgets, Heimpel said.

The foster care system is struggling to operate in the face of severe cutbacks. The state has cut more than \$62 million from the Department of Children and Families' budget since fiscal year 2008, an 8 percent reduction. Meanwhile, the number of children and families being served by the department has increased by 10 percent, according to the nonprofit Children's League.

The cuts have brought heavier case loads for social workers, among other setbacks. The prognosis for the coming fiscal year is not good. The Patrick administration announced recently its intention to cut \$1.5 billion from the budget.

Money is clearly tight, but we hope the governor can find more money for foster care in Massachusetts in order to reverse the slide in care.

Children aren't often heard in the legislative process. They have no loud lobby. Who will stand up for them?

Whether they get the help they deserve will be a hard but real measure of our state's compassion for people most deserving of government help.

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