

Permanency Planning Report

In Response to S.B. 368, 77th Legislature, Regular Session, 2001



Submitted to the Governor and the Texas Legislature
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PERMANENCY PLANNING

INTRODUCTION AND PURPOSE

With the passage of S.B. 368, 77th Legislature, Regular Session, 2001, the Texas Health and Human Services Commission (HHSC) was charged with monitoring child (defined in the legislation as a person with a developmental disability under the age of 22) placements and ensuring ongoing permanency plans for each child with a developmental disability residing in an institution in the state of Texas. HHSC is required to report its findings to the Governor and the Legislature semi-annually.

S.B. 368 defines “institution” as an Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions (ICF/IID), a Medicaid waiver group home under the authority of the Texas Department of Aging and Disability Services (DADS), a foster group home or agency foster group home, a nursing facility, an institution for people with an intellectual disability (ID) licensed by the Texas Department of Family and Protective Services (DFPS), or a residential arrangement (other than a foster home) that provides care to four or more children who are unrelated to each other. Institutions regulated by DADS include nursing facilities, community-based ICFs/IID (small, medium, and large), state supported living centers (SSLCs), and Home and Community Based Services (HCS) waiver settings (supervised living or residential support only). Some school-aged individuals in residence at SSLCs are admitted under a civil court commitment and some may be admitted under a criminal court commitment.

The initial semi-annual report of these efforts was filed in December 2002. These reports have been produced at six-month intervals since that date. This report covers data and information for the period from September 1, 2012 to February 28, 2013 with reference to relevant historical data necessary for evaluative purposes.

The state’s permanency planning efforts have been achieved by collaborative efforts among HHSC, DADS, and DFPS. HHSC is required to report specific information regarding permanency planning activities to the Governor and the Legislature, which includes:

- The number of children residing in institutions in the state and the number of those children who have a recommendation for transition to a community-based residence but who have not yet made the transition.
- The circumstances of each child including the type of institution and name of the institution in which the child resides, the child’s age, the residence of the child’s parents or guardians, and the length of time in which the child has resided in the institution.
- The number of permanency plans developed for children residing in institutions in this state, the progress achieved in implementing those plans, and barriers to implementing those plans.
- The number of children who previously resided in an institution in this state and have made the transition to a community-based residence.

- The number of children who previously resided in an institution and have been reunited with their families or placed with alternative families.
- The number of community supports that resulted in the successful placement of children with alternative families.
- The number of community supports that are unavailable, but necessary, to address the needs of children who continue to reside in an institution in this state after being recommended to make a transition from the institution to an alternative family or community-based residence.

SUMMARY OF AGENCY ACTIVITIES

Since the implementation of S.B. 368, HHSC, DADS, and DFPS have worked diligently to refine and improve permanency planning activities. This required continuing collaboration across divisions in each agency, as well as collaborative efforts across agencies to facilitate system changes for long-term results.

Texas Department of Aging and Disability Services

Since September 1, 2012, the following activities were initiated or completed in support of permanency planning:

- As of September 1, 2012, the local authorities (LAs) are no longer responsible for the completion of Permanency Plans for individuals in Nursing Facilities. HHSC now contracts with EveryChild, Inc. to complete these plans.
- DADS continued to provide weekly reports of individuals in need of permanency planning and the timeframes for conducting permanency planning through the Client Assignment and Registration System (CARE).
- DADS provided technical assistance to LA staff to assist with compliance with the permanency planning requirements as described in the LA performance contract for children in institutions other than nursing facilities.

Texas Department of Family and Protective Services

- Child Protective Services (CPS) regularly discussed cases with developmental disability specialists, caseworkers, placement team staff, and external advocates, (such as EveryChild, Inc. and Disability Rights Texas) to find appropriate placements for children with intellectual and developmental disabilities whose special needs make finding placements challenging.
- CPS collaborated with EveryChild, Inc. to find appropriate homes in the community for children in GROs selected for HCS waiver services.
- During this reporting period, ten children were approved for placement in a DFPS GRO for children with intellectual and developmental disabilities. One child was approved for

placement in a State Supported Living Center and one child was approved for placement in a Home and Community-based Services group home. Approval for placement requires the written approval from the CPS Assistant Commissioner or her designee.

- DFPS and DADS staff worked together to implement the 2012-13 General Appropriations Act, S.B. 1, 82nd Legislature, Regular Session 2011, Department of Family and Protective Services, Rider 52 to make 192 HCS waiver slots available to CPS youth transitioning out of DFPS care.
- DFPS developmental disability specialists continued to complete the permanency planning instrument used throughout the agencies and submit them to CPS state office for review and tracking.
- DFPS continued to chair the Transition Subcommittee of the Task Force for Children with Special Needs. (See HHSC section below for additional information on these and other related advisory committees on which DFPS participates.) DFPS participates on the crisis intervention and prevention subcommittee for the Task Force. This subcommittee is charged with developing a plan to ameliorate crises for children with special needs and increase crisis prevention across the state, which will prevent the institutionalization of children.

Texas Health and Human Services Commission

- HHSC continued to provide oversight of the family-based alternatives contract with EveryChild, Inc., to ensure continued implementation of the project in areas of the state with high concentrations of children residing in institutional settings.
- HHSC expanded the scope of its contract with EveryChild, Inc. to include permanency planning for children in nursing facilities for HHSC, DADS and DFPS.
- HHSC, DADS, and DFPS continued as agency members on the Task Force for Children with Special Needs. The Task Force is charged with creating a strategic plan to improve the coordination, quality and efficiency of services for children with a chronic illness, intellectual or other developmental disability, or serious mental illness. HHSC continued to chair and provide staff support to the Task Force. The Task Force developed a five-year plan that was submitted and posted on the agency website: http://www.hhsc.state.tx.us/about_hhsc/AdvisoryCommittees/docs/CSN-5-year-plan.pdf in October 2011. The Task Force is focusing its initial implementation on two priority areas: (1) to better inform and empower families, and (2) to improve crisis prevention and intervention efforts. These efforts are designed to prevent the institutionalization of children.
- HHSC, DADS, and DFPS continued as ex-officio agency members of the Children's Policy Council. The council in the past year has completed a report with recommendations to the legislature <http://www.hhsc.state.tx.us/si/C-LTC/2012-CPC-Leg-Report.pdf> and white papers for DADS and Medicaid/CHIP on Medicaid reform for acute and long-term care for children with special needs.
- HHSC, DADS, and DFPS continued as agency members on the Council on Children and Families. The Council coordinates state health, education, and human services for children

of all ages and their families; improves coordination and efficiency in state agencies and advisory councils on issues affecting children; prioritizes and mobilizes resources for children; and facilitates an integrated approach to providing services for children and youth. HHSC continued to provide staff support to the Council.

REPORTING ELEMENTS

S.B. 368 requires that a permanency plan be developed and updated every six months for each child who resides in an institution (as defined by Texas Government Code §531.151). Permanency plans are developed and updated at the local level.

Total Number of Children Residing in Institutions

Section 531.162 (b)(1) of the Government Code requires HHSC to submit a semi-annual report on the number of children residing in institutions (as defined by S.B. 368) in this state and, of those children, the number for whom a recommendation has been made for a transition to a community-based residence, but who have not yet made that transition. This information is provided in Tables 1 and 2.

TABLE 1: NUMBER OF CHILDREN RESIDING IN INSTITUTIONS*

Nursing Facilities	Small ICF/IID	Medium ICF/IID	Large ICF/IID	State Supported Living Centers	HCS	DFPS GRO Facility	DFPS Other Licensed Facility	Total
70	254	56	16	221	623	80	95	1,415

*Data reflect the number of children residing in an institution as of February 28, 2013.

CHILDREN RESIDING IN STATE SUPPORTED LIVING CENTERS (SSLCS)

As of February 28, 2013, of the 221 school-aged individuals in residence in an SSLC, 104 were admitted under a criminal court commitment and 117 were admitted under a civil commitment:

Criminal Court Commitment: ages 0-17 = 60; ages 18 – 21 = 44

- Civil Court Commitment: ages 0-17 = 32; ages 18-21 = 85

TABLE 2: TOTAL IN FACILITIES REGULATED BY DADS BY AGE

Type of Facility	Number of Individuals	Percentage of Overall Placements	Number of Young Adults over 18 years	Number of Minor Children
HCS Group	623	53%	435 (70%)	188 (30%)
Small ICF/IID	254	22%	201 (79%)	53 (21%)
Medium ICF/IID	56	5%	49 (88%)	7 (13%)
Large ICF/IID	16	3%	16 (100%)	0 (0%)
Nursing Facilities	70	6%	30 (43%)	40 (57%)
SSLC	221	20%	129 (58%)	92 (42%)

TABLE 3: NUMBER OF CHILDREN UNDER DFPS CONSERVATORSHIP WITH DEVELOPMENTAL DISABILITIES BY FACILITY TYPE

	DFPS Children Under Age 22
DADS Regulated Facilities	
Small ICF/IID	8
Medium ICF/IID	1
Large ICF/IID	1
State Supported Living Centers	7
Nursing Facilities	0
HCS	43
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	60
DFPS General Residential Operations (GRO)	
Facility Providing Long-Term Residential Services	
Independent Foster Group Home	0
DFPS Licensed Institution for ID	66
Basic Care Facility	14
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	80
Other DFPS Licensed Facilities^[1]	
Residential Treatment Center	82
Other Group Settings	13
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	95
Total Children in DFPS Licensed Facilities	175
Total DFPS Children in all Facilities	235

By agreement with HHSC, for purposes of this report, DFPS will target permanency planning reporting efforts of foster youth with developmental disabilities placed in DFPS Licensed Institutions for ID. As noted in Table 3, there were 66 foster children with disabilities residing in DFPS Licensed Institutions for ID as of February 28, 2013:

- Mission Roads Development Center - 40 children
- Casa Esperanza - 15 children
- Shared Vision - 11 children

TABLE 4: NUMBER OF CHILDREN RECOMMENDED FOR TRANSITION TO THE COMMUNITY

Recommendations Per Agency	Number of Children
DADS with Family/Legally Authorized Representative (LAR) Support to Move to Family Home	317
DADS with Family/LAR Support to Move to Alternate Family	162
DFPS	66
Total	545

Circumstances of Each Child Residing in an Institution

Attachment A (Demographics by County – Child) and Attachment B (Demographics by County – Parent/Guardian) contain information on type of facility, age of child, length of time in the institution, and county of residence for child and parent/guardian. Data for this report includes children residing in institutions as of February 28, 2013. Data regarding age and length of time in an institution are calculated based on the date the data was submitted to HHSC.

Permanency Plans Developed for Children in Institutions

S.B. 368 requires that every child residing in an institution have a permanency plan developed and updated semi-annually. Permanency planning for children is a process of communication and planning with families and children to help identify options and develop services and supports essential to the eventual and planned outcome of reuniting children with their own family or temporary or permanent placement with a support family.

The information below is categorized by the state agency responsible for the activity describing the number of permanency plans developed and any barriers encountered in that process. Each state agency has statutorily defined oversight responsibility for permanency plans for locations where children reside.

Permanency Planning in Institutions Regulated by the Texas Department of Aging and Disability Services

DADS has delegated responsibility for conducting permanency planning activities to the 39 LAs, as delineated in DADS’ performance contract with the LAs. The permanency planning activities are completed by service coordinators who work for the LAs.

TABLE 5: PERMANENCY PLANS COMPLETED BY DADS

Nursing Facilities	Small ICF/IID	Medium ICF/IID	Large ICF/IID	SSLC	HCS	Total
62	250	54	15	216	619	1,216

Permanency Planning at the Texas Department of Family and Protective Services

DFPS continues to conduct permanency planning by completing and reviewing the department’s child service plans that are required for all children placed in substitute care in order to meet federal requirements. Permanency planning information is also submitted to the courts for regularly scheduled court reviews (permanency hearings for cases in temporary legal status and placement review hearings for cases in permanent legal status with the department). For children in care who have developmental disabilities and who are placed in certain facilities, DFPS also completes the HHSC permanency planning instrument to assist with permanency planning activities and comply with reporting requirements.

TABLE 6: PERMANENCY PLANS COMPLETED BY DFPS

Total Plans Completed	Total Plans Required
34	66

For the reporting period, DFPS had responsibility for preparing Permanency Planning Instrument reports on 66 children in institutions. As of February 28, 2013, DFPS sent permanency information on 34 plans to HHSC for DFPS youth. DFPS service plans that included permanency plans were completed on all of these children. Court reviews for these children, which contained information regarding permanency issues, were current for these children/youth.

Movement of Children from Institutions to the Community and to Families or Family-Based Alternatives

Staff at local agencies have taken important and necessary steps in communicating available options to families and initializing the identification of needed supports. Ongoing review of data demonstrates that the number of children moving from institutions into the community, either to their own family home or to a support family, continues at a steady pace. Additionally, other children have moved from larger institutions into less restrictive institutions in the community

The data reflects movement of children from institutions to the community during a six-month period ending February 28, 2013. (For information regarding children who are in the process of moving, see *Community Supports Unavailable for Children Recommended for Community Movement*.)

While every effort is made to encourage reunification of children with birth families, there are some instances when this is not in the best interest of the child or family. In those situations, the preferred alternative for a child may be a support family, also known as a family-based

alternative. Family-based alternatives are defined in S.B. 368 as “...a family setting in which the family provider or providers are specially trained to provide support and in-home care for children with disabilities or children who are medically fragile.” While active recruitment of families continues, the number of children in need exceeds the current availability of support families.

Across agencies, for the six-month reporting period described above ending February 28, 2013, 254 children with developmental disabilities left an institution for a family, family-based setting, or other less restrictive setting. Of this total:

- 153 children moved to less restrictive environments (other than family-based settings).
- 101 children moved to family-based settings.

The details by agency are as follows:

Texas Department of Aging and Disability Services

During the period from September 1, 2012 through February 28, 2013, 173 individuals moved to a less restrictive setting:

- 110 individuals moved to HCS supervised living or residential support or a smaller ICF/IID.
- 21 individuals returned home.
- 42 individuals moved to an alternate family.

Texas Department of Family and Protective Services

During the period of September 1, 2012, to February 28, 2013, there were 81 children that transitioned to a less restrictive setting in the community:

- 43 children moved to less restrictive institutional settings (HCS group homes, small ICFs/IID or foster group homes) from another institutional placement.
- 38 children transitioned to family settings (HCS family homes, foster family homes, relative homes, or independent living).

Community Supports Necessary to Transition Children to Support Families

The desired outcome is to provide a family for every child residing in an institution. Developmental Disability Specialists work with community agencies, such as EveryChild, Inc., and the LAs to communicate service options to families and identify needed supports. The Developmental Disability Specialists, along with the Conservatorship caseworker, review cases and whenever possible move children from institutions into the community, either to their own family home or to a support family or to move children from larger institutions into less restrictive institutions in the community. This may require locating and securing long term services and supports to allow the child and family to thrive as independently as possible in the community. For many children, these supports take the form of medical equipment or staff and behavioral interventions, which may not be readily available or accessible in all communities. To reach the desired goal, long term services and supports are identified and documented in the permanency plan. These supports must then be identified and developed or located on an

individual basis for each child and family. Once supports are identified and located, families must be able to access supports through funding, such as 1915(c) Medicaid waivers.

Texas Department of Aging and Disability Services

Table 7 provides a list of support services and the number and percentage of individuals who needed each support service in order to achieve their permanency planning goal.

TABLE 7: PERCENT OF INDIVIDUALS IN DADS INSTITUTIONS WITH PERMANENCY PLANS NEEDING SUPPORT SERVICES

Support Service	Total Needing Support Service	Percent Needing Support Service
Ongoing Medical Services	518	43%
Behavioral Intervention	497	41%
Personal Attendant	442	36%
Transportation	489	40%
Night Person	440	36%
Mental Health Services	369	30%
Respite In-Home	250	21%
Respite Out-of-Home	271	22%
Training	319	26%
Crisis Intervention	255	21%
Specialized Therapies	194	16%
Child Care	151	12%
Specialized Equipment	166	14%
Family/LAR Support	167	14%
Support Family	117	10%
Specialized Transportation	109	9%
Durable Medical Equipment	104	9%
Architectural Modification	90	7%
In-Home Health	72	6%
Volunteer Advocate	41	3%

Table 8 illustrates the service needs that were identified for individuals who moved from an institution.

TABLE 8: SERVICE NEEDS OF INDIVIDUALS IN DADS INSTITUTIONS WHO REUNITED WITH FAMILY OR MOVED TO ALTERNATE FAMILY

Service Type	Number Who Needed These Services to Reunite with Family	Number Who Needed These Services to Live with an Alternate Family
Ongoing Medical Services	9	14
Behavioral Intervention	8	16
Personal Attendant Services	8	12
Transportation	9	18
Respite In-Home	7	6
Mental Health Services	7	12
Respite Out-of-Home	7	6
Night Person	7	11
Crisis Intervention	4	5
Specialized Therapies	74	4
Training	6	7
Specialized Equipment	1	4
Durable Medical Equipment	2	1
Family/LAR Support	3	4
Support Family	3	3
Architectural Modification	1	0
Child Care	3	4
Specialized Transportation	52	52
In-Home Health	1	0
Volunteer Advocate	0	2

Texas Department of Family and Protective Services

Supports that have facilitated the transition of children into the community include:

- Completion of DFPS requirements to reduce the risk factors for parents to safely care for their children in their home.

- Adoptive recruitment efforts for parents willing to parent a child with medical/cognitive/physical disabilities.
- Enrollment in Medicaid waiver programs.
- SSI funding and Medicaid eligibility.
- Community supports and resources available as needed.
- Interagency cooperation (DADS/DFPS) to ensure children are on interest lists, and local service areas are processing requests.
- EveryChild, Inc., HHSC's family-based alternatives contractor, exploring support family alternatives to institutional care, wrap-around, and other services for children with disabilities in an effort to transition children from institutional settings into the community.
- Knowledgeable resource personnel who assist caseworkers (such as Developmental Disability Specialists).
- Foster families willing to work with children with special needs.
- Rider 52 providing 192 HCS waiver slots available to CPS youth transitioning out of care.
- The availability of 10 HCS waiver slots for children under 17, residing in General Residential Operations.
- Efforts of the Community Resource Coordination Groups.

Community Supports Unavailable for Children Recommended for Movement to the Community

For some children recommended to move to the community, the identification and location of specialized supports has been accomplished but a financial barrier remains. Funding continues to be needed for these supports. For other children, supports are identified but the location and accessibility to the supports are not available on a timely basis, such as community services with waiting lists. For still others, the identification of and funding or accessibility to a specialized support is available, but the support service is not available in their particular community.

Supports unavailable for children recommended for movement to the community include:

- Available family placements
- Respite in-home services
- Respite out-of-home services
- Child care services
- Behavior intervention services
- Other Medicaid waiver resources for children currently in out-of-home care

Children in DFPS conservatorship were removed from families due to issues of abuse and/or neglect. In some cases, the parents are still working with DFPS to resolve these issues so that the child can be safely returned to them. In other cases, DFPS is trying to find a relative or some

other alternative family to care for the child on a permanent basis (through adoption, transfer of conservatorship, or through DFPS maintaining conservatorship and placement of the child with a foster family willing to make a commitment to the child).

Medicaid waivers continue to be the optimum solution for children to transition to community placements. However, community supports are not always available. Support development takes time, thereby increasing time needed to make a placement. Additionally, available foster families that are skilled, trained, and willing to work with children with disabilities, such as foster families that can effectively communicate with children who are deaf, are needed. Needed supports include in- and out-of-home respite services, child care (including day care), and behavior intervention services for children with co-existing diagnostic issues.

SUMMARY AND TRENDS IN DATA

S.B. 368 includes HCS supervised living and residential support in the definition of an institution. Including children in HCS settings, the total number of children with developmental disabilities residing in institutions has declined 16 percent in the past 11 years.

When HCS settings are excluded, the data reveals a decline of 48 percent in the number of children residing in DADS-regulated facilities since 2002, as children have experienced a shift to smaller, less restrictive environments. The number of individuals living in all types of DADS-regulated institutions, except HCS, decreased six percent in the past year. Excluding HCS, the total number of children in DADS and DFPS facilities combined decreased 8 percent over the past year, while showing an overall decline of 42 percent since 2002.

**TABLE 9: TRENDS IN NUMBER OF CHILDREN RESIDING IN INSTITUTIONS
BY FACILITY TYPE 2002-2013**

Institutional Type	Baseline Number as of 8/31/02*	Number as of 2/29/12	Number as of 2/28/13	Percent Change since August 2002*	Percent Change in Past Year
HCS	312	625	623	100%	0%
Small ICFs/IDD	418	278	254	(39%)	(9%)
Medium ICFs/IDD	39	65	56	44%	(14%)
Large ICFs/IDD	264	27	16	(94%)	(41%)
State Supported Living	241	253	221	(8%)	(13%)
Nursing Facilities	234	76	70	(70%)	(8%)
DFPS Facilities	167	158	175	5%	11%
Total DADS Facilities	1,508	1,324	1,240	(18%)	(6%)
Total DADS Facilities Without HCS	1,196	699	617	(48%)	(12%)
Total DADS and DFPS	1,675	1,482	1,415	(16%)	(5%)
Total DADS and DFPS Without HCS	1,363	857	792	(42%)	(8%)

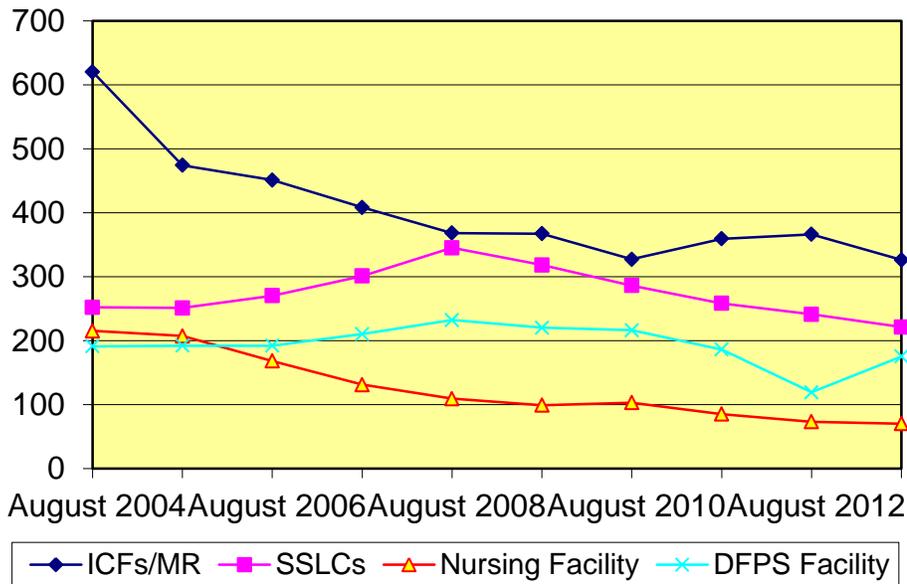
*Baseline data for DFPS facilities as of August 31, 2003.

While data shows an overall increase in the number of individuals moving to smaller settings over the past eleven years, there have been some exceptions. The number of children residing in SSLCs had trended upward between 2002 and 2008. However, that number is down 13 percent from last year, and has declined 36 percent since its peak in 2008. It now stands below the baseline number seen in 2002. The number of children in medium size ICFs/IDD, while relatively small has trended upward, but has fallen 14 percent in the past year. A decrease of 11 children in large ICFs/IDD contributed to a 41 percent decrease over the past year, and contributed to the 94 percent decrease since 2002.

The number of children in DFPS facilities has increased five percent since August 2003, the first full year for which data was available. The number of children in DFPS facilities increased 11 percent in the past year.

Excluding HCS, there were 65 fewer children living in all DADS and DFPS facilities combined as of February 28, 2013, compared to a year earlier, and 571 fewer compared to the baseline year (August 2002 for DADS, August 2003 for DFPS).

TABLE 10: NUMBER OF CHILDREN RESIDING IN INSTITUTIONS BY FACILITY TYPE



*2002 Data for DFPS is incomplete; therefore baseline data used in this report for DFPS facilities is as of August 31, 2003

With assistance from HHSC’s family-based alternatives contractor (EveryChild, Inc), DADS, DFPS, child placement agencies, and Medicaid waiver providers have continued to work together enabling children to return to their natural home, finding family-based alternatives, or placing children in less restrictive living arrangements. During the 12-month period ending February 28, 2013, 254 children moved into less restrictive or family-based settings:

- 101 children were moved from institutions (not including Residential Treatment Centers) to family-based settings.
- 153 children moved from an institution (not including Residential Treatment Centers) to a less restrictive setting under an arrangement other than a family or family-based alternative.

Since 2003, over 2,200 children have moved back to their birth families or to family-based alternatives and a similar number have moved to other less restrictive environments, bringing the total number of children moved from institutions to over 4,400.