This brief provides an overview of child welfare privatization and how advocates can be involved in efforts to privatize child welfare services. Guided by advice from seasoned public and private agency administrators and advocates, it includes practical tips for advocates when privatization is being considered, planned, implemented, evaluated, or re-assessed.

State advocates can actively participate in all stages of privatization. In partnership with policymakers, state administrators, private providers, and advocates can:

- Weigh the possible benefits and risks of privatization
- Design contract reforms once the decision to move forward is made
- Promote smooth implementation
- Monitor outcomes of privatization
- Continue to make the case for adequate funding, structures, and oversight

Child advocates are a key voice in privatization efforts. While other stakeholders may have multiple interests affected by privatization, child advocates have the ability to ensure that improved outcomes for children and families remain front and center at every step in the process.

An Overview of Child Welfare Privatization

Provision of child welfare services by private organizations is not a new concept. In many ways, the private sector served families and children long before governmental agencies took on the responsibility. However, the transfer to the private sector of frontline case management functions such as setting case goals, deciding how and when services are delivered, assessing progress, and managing resources to meet child and family needs, has only been evident since the mid-1990s. These newer efforts have increasingly been labeled “privatization,” but are also called “outsourcing,” “public-private partnership.”
and “community-based care.” For the purpose of this guide, child welfare privatization includes:

- A shift in responsibility and decision-making authority
- Core mandated child welfare functions formerly provided by the public agency shifting to the private sector, while still monitored by the public agency
- The introduction of some level of financial risk-sharing between the public and private agencies

Regardless of the label, the more responsibility the public agency gives to private providers, the more dependent the state is on their performance. Partnership, accountability, and trust become key features of the new contracting environment.

There are many privatization arrangements, ranging from vouchers to public-private partnerships. The most common form of privatization in all fields, however, is “contracting out,” a process in which the government seeks competition among private bidders to perform government activities. With contracting out, the government remains the financier and is responsible for managing and setting policies on the type and quality of services to be provided.

**Performance-Based Contracting**

In child welfare, a principal form of contracting out is performance-based contracting (PBC). Over the past few decades, child welfare and other health and social services have broadly experimented with PBCs that directly link child and family outcomes to private agency reimbursement, or indirectly link them to contract renewal. There is no single definition of PBC, but there is agreement that PBC has shifted the focus away from system processes (holding agencies accountable for *how* things are done) toward improved outcomes for children and families (holding agencies accountable for *results*).

PBC models are diverse, with differences in some or all of the following:

- The amount and timing of payments to the contractor
- The extent to which financial incentives and disincentives are offered
- The level of risk assumed by the contractor
- The type of information collected from the contractor and frequency of reports on performance
- The extent to which the contractors were involved in developing performance indicators
- The extent to which there is reinvestment of savings

**Example:** During the mid-1990s, Illinois reported that 17.1 out of every 1,000 children in the state were in foster care, the nation’s highest rate. The state converted its existing foster care contracts to reward performance and simultaneously implemented a number of other reforms, including securing three title IV-E
waivers and becoming a nationally accredited public agency. These reforms were intended to reduce the number of children entering care and to support all permanency options. More recently, the state has expanded its PBCs to include residential/group care agencies.

**Reasons for Privatization of Child Welfare Services**

There are many forces that drive the size, scope, and focus of privatization in child welfare. Sometimes the goal is to save money or make the system more efficient. Other times, decisions to privatize arise in times of crisis, such as a class action lawsuit or highly publicized child deaths. The pressure to act quickly can lead to insufficient time and attention to planning. Regardless of impetus, privatization discussions are frequently politicized and controversial.

In the majority of states with privatization initiatives, state legislatures have played a role. The nature of the legislative mandates has varied. Some states have enacted laws that promote privatization, while others have enacted laws seeking to regulate and curtail such activity. At times, privatization policies have changed dramatically from one year to the next within a state as a result of political or economic shifts, public response, or actual or perceived experience with privatization.

**Goals of Privatization**

Although specific outcomes and indicators vary, for the past two decades, privatization initiatives have consistently had four broad goals:

- Improved child and family outcomes consistent with federal and state mandates and the Child and Family Services Review (CFSR)
- System improvement (expansion of services, more equitable distribution, greater local control, greater family involvement, evidence-based practices)
- A more efficient use of taxpayer resources than can be achieved by the public sector
- A greater alignment between programmatic goals and fiscal resources

**Arguments For and Against Privatization**

Privatization has vocal supporters and opponents. Arguments in favor typically include that it:

- Helps governments save money in management and delivery of public services
- Allows for speedy implementation of a reform agenda
- Uses more innovative approaches and technology
The Role of Financial Incentives and Risk-Sharing in Privatization

A key feature of recent contracts has been the introduction of financial risk tied to performance. At the core of PBC is the principle that at least some risk for performance failure is transferred from government agencies to contractors. There is variability in how payments are structured and risk is introduced, and no single payment model has been exactly replicated from one state to another. The risks to private agencies are different under different payment models and PBCs.¹

Before a state decides which, if any, risk-based options to use, planners must assess current provider capacity and carefully explore the pros and cons of different models with that capacity in mind. This assessment is equally important to the public agency’s comfort level in relinquishing control over some decisions in return for the introduction of financial risk. It is unrealistic to embrace a full or partial risk contract and assume current roles and responsibilities will remain intact.

The Children, Families, and Services Affected by Privatization

No state has chosen to privatize the child abuse hotline or Child Protective Services’ initial investigation functions. Beyond that commonality, there is variation in populations included and excluded from privatization.
Types of Contracts

From one state to another, contracts vary. Even within a state, contracts may change over time. Two types of contracts are the lead agency and the service-specific PBC models. Under the lead agency model used in Florida, Kansas, Missouri, Nebraska, and Texas, the public agency contracts with one or a limited number of agencies in a designated region to provide all specified services for the target population from referral to case closure, or some other point specified in the contract. Some lead agencies provide most, if not all, services with few or no subcontracts. Others procure most services and a few deliver no services directly. Some lead agencies are single agencies that typically are nonprofit and nationally accredited with long histories of providing services to the public agency prior to the lead agency procurement. Others are newly formed corporations that are created by two or more child welfare service agencies who decide to collaborate rather than compete on a lead agency procurement. Lead agency contracts may or may not tie payments directly to performance, but public agencies typically look at past performance when they re-bid contracts. Some lead agencies have PBCs with their subcontractors as well.

Instead of using lead agencies, some states enter into PBCs with all agencies that offer the specified services. Some states have no competition at the front-end of their PBC, but only the best performing agencies may survive. For example, Illinois has PBCs with all foster care providers and separate PBCs for residential/group care providers.

There is no comparative data to say what contract model or payment option works best. Innovative practices and improved results have been noted in all types of models. Conversely, all types of contracts have also experienced failure. Results at improving outcomes are mixed across all types of contracts. Some contracts have exceeded expectations, some were dismantled, and others still were modified and expanded. As for the cost of the contracts, some initiatives cost far more than expected, others redirected resources to serve more people for the same dollars, and only a few resulted in actual savings.
Case Management in Privatization Efforts

No decision is more important or controversial in privatization than whether the public or private agency makes case-level decisions. In states including Florida, Illinois, Kansas, Missouri, and Nebraska, the public agency has delegated all case management for certain children. In others such as Iowa and Texas, the private agency has control over some day-to-day decisions, but public agency staff retains legal case management. A few states have “overlapping” case management systems, which may increase costs and pose challenges in role clarity. When private agencies assume responsibility for any core case management function, the public agency always retains ultimate responsibility, making oversight a critical function.\(^2\)

The Role of Advocates in Privatization Initiatives

State advocates are uniquely positioned to ensure an effective approach to designing, implementing, and evaluating a privatization effort. Whether advocates choose to remain neutral or take a position for or against child welfare privatization, they should:

- **Learn more about privatization or PBCs in other jurisdictions** and explore the impact on children and families, the public agency, private agency providers, and the budget. It is helpful to start with states that have conducted independent evaluations over multiple years (Florida and Kansas), and to contact researchers to learn about trends over time. Hiring a consultant who has experience helping states design privatization efforts may also help.\(^3\)

- **Ensure that the best interests of children and their families are at the center of planning and designing privatization.** States do not move towards privatization if everything is working well. Privatization is often a proposed response to below-standard performance or crisis. Advocates must recognize the challenges that children and their families face in the current system and honestly assess whether the proposed reform might improve their lives.

- **Help foster a thoughtful, respectful, data-informed planning process,** especially when stakeholders become polarized. Since they do not have a stake in a particular outcome, advocates are uniquely positioned to be impartial referees when public and private agency interests get in the way of sound planning.

- **Carefully analyze both public and private agency practices and performance data** to determine changes needed to support greater accountability across public and private agencies. Too often, the focus is on what the public agency will do to hold private agencies accountable, and not on the changes that must be made by both public and private agencies.

- **Hold child welfare agency administrators and policymakers accountable for, and support the establishment of, a continuous quality improvement approach** to managing and evaluating contracts. Accountability involves:
  - Setting goals and action steps
Lessons Learned and Tips for Advocates

While the evidence base on privatization is limited, a review of the literature finds remarkable consistency in success factors and key issues that should be considered when planning, implementing, revising, and evaluating a privatization initiative.

Tips for Advocates: Get a seat at the table and work collaboratively to focus on why the state should or should not privatize, keeping the focus on improving outcomes for children and families. Continuously emphasize that children and families must be kept front and center throughout discussions and planning.

1. Commitment to change starts with an inclusive planning process and a shared vision.

A consistent message echoed by public and private agencies and other stakeholders is that planning for privatization is incredibly hard, and that success is far more likely when all parties are engaged in building a shared vision for a more effective public-private delivery system.

In far too many states, privatization efforts are treated as discrete, isolated efforts and not as an integral part of the state’s overall approach to system improvement. Often, inadequate staff resources are committed to the planning phase and too few people are included.
Who should be encouraged to participate in initial discussions?

- The service provider community
- Representatives at all levels of the public agency
- Juvenile and family court judges
- Parents and youth who receive services
- Foster and adoptive parents (or associations)
- Monitors of court negotiated agreements
- Public employee unions
- Members of the state legislature and legislative committees
- The broader service community, including mental health and substance abuse providers
- Tribal leaders
- Local advocates whose sole interest is what is best for children and families

What issues should be explored?

- Does the proposed solution of privatization fit the problem?
- Why does the child welfare system want to privatize a service or services?
- What do planners want to achieve and why do they expect private agencies to outperform the public agency?
- Will privatization address the challenges in the current system? Will other supports or changes be needed?
- Is privatization being discussed in the context of other state reforms or improvement plans to support child safety, permanency, and well-being? If so, how will reforms be integrated?

Clearly articulating the “why” is the only way for states to know how they will define success once projects are implemented.

It is critical for planners to consider all of the challenges and constraints in the current system in order to address those obstacles in the new contracts. Sustained dialogue to reach consensus on key design elements of privatization will pave the way for a better contract and increase the likelihood of success. Fiscal and program design decisions that planners must make are more thoroughly covered in other publications.4

2. Define success, outcomes, and performance expectations and require evaluation to understand why expectations were or were not met.

As the adage goes, “What gets measured gets done.” It is important to advocate for agreed-upon outcomes that will be measured over time so that the effectiveness of the privatized approach can be assessed. It is difficult to determine whether

**Tips for Advocates:** Be a leader in working collaboratively to develop the outcomes and performance measures.
privatization is working without standardized outcomes measures used from the beginning and compared against a baseline. States must start with a realistic assessment of current performance. At the beginning of any new initiative, the public agency or its private agency partners have to generate performance reports on all the permanency, safety, and well-being outcomes and performance measures that are selected.

In defining specific outcomes, most states start with federal mandates as the framework although definitions and performance measures are often adapted from one state to another and changed over time. Challenges still abound in some contracts. Outcomes and measures may be poorly defined, there may be too many, too few, or not the “right” outcomes, or there is no alignment between the level of funding and expectations. In addition, the link between performance-based payment and the threshold for success varies across the states.

Planners must also consider how to evaluate the privatization effort beyond the gathering of the agreed-upon data. Too often, relying on administrative data sets alone does not tell why an effort succeeded or failed. This is something that a well-designed evaluation, ideally by an independent evaluator, will do.⁵

**Example:** For more than a decade, Florida has contracted with the University of South Florida (USF) to conduct a third party evaluation of its Community Based Care (CBC) initiative. Since the receipt of its Title IV-E waiver, USF began evaluating the demonstration in the context of CBC. Recent reports are available online at http://cfs.cwcs.usf.edu/projects-research/detail.cfm?id=383.

### 3. Privatization can only work with adequate service capacity, including services provided and reimbursed from multiple systems.

One of the goals of many privatization efforts has been the expansion of services. In order for service expansion to occur, private agencies need flexible funds and adequate time to build their core services and strengthen access to external services such as health and behavioral health care. In recent years, initiatives have included very limited funds and short timeframes for agencies to expand services before the contract starts. When funding and start-up time are not built into implementation, initiatives can encounter serious fiscal and programmatic challenges and service capacity is a lingering concern.⁶

Planners need to identify funding sources and establish links with other child-serving systems (mental health, substance abuse, and Medicaid) for services that will not be reimbursed directly to the provider. If the child
welfare system does not have a pool of Medicaid funds designated for therapeutic placements and services, mechanisms must be put in place to ensure that child and family needs can be met through the state’s health and behavioral health care plans.

4. **There must be sufficient public and private agency capacity and commitment to succeed.**

Privatization requires an adequate pool of highly qualified private agencies prepared to assume new management roles, take on potential financial risks, and effectively partner with the public agency. It also requires a public agency that is prepared to communicate with, oversee, and work collaboratively in new ways with private agency partners. Contracts will not succeed if either side lacks the capacity or commitment to make them work.

Advisers can ask the following about capacity:

- Do private providers have the skills and administrative capacity to manage large scale contracts, assume financial risks, maintain quality, and monitor service delivery and client outcomes?
- Is the public agency prepared to assume new roles focused on collaboration with private agencies, contract design, procurement, and monitoring?
- Is a feasibility study of private agency and public agency capacity needed before proceeding?

What resources are needed to ensure both private agencies and the public agency are ready? Given these investments, is privatization still financially feasible now?

5. **Contract reforms can only be planned, implemented, or evaluated with accurate and timely data.**

Both public agencies and providers need data to make operational decisions and successfully manage contracts. The data system must be able to track performance from a variety of different perspectives – client status, service utilization, service/episode costs linked with case plan goals, treatment, and outcomes. Most initiatives have faced tremendous data challenges that negatively affect planning and oversight by the public agency, performance, and ultimately the partnership. Planners need to assess the current information technology capacity of the public agency and private agency partners and identify necessary enhancements. They need to ensure that contract agencies have the technological and staff capacity to meet data collection and reporting requirements, and can gather and share data to monitor privatization and guide future planning.
6. Mandates must be adequately funded and cost savings may not happen immediately or at all.
Simply writing a contract that demands a certain level of performance will not ensure that providers can achieve intended outcomes. Mandating services and activities that far exceed funding may only contribute to a provider becoming insolvent, which in turn may destabilize the system and place children and families at increased risk. Mandates that rely on evidence-based practices, significantly lower caseloads, higher practice standards, and increased administrative/business capacity will not achieve better outcomes if not accompanied by significant infusion of resources.

Recent privatization reforms teach that well-designed and funded privatization efforts can help achieve better outcomes, spur innovation, and align performance with financial incentives. However, these reforms also show that in most cases, enhancing system performance costs more than the current system.

After years of experimentation, states still struggle to accurately estimate the cost of privatization and fail to set rates that cover the cost of services necessary to meet the efforts’ higher expectations. Inadequate funding can seriously jeopardize the success of a privatization effort. As one advocate noted:

*Be aware that there may be unintended consequences of privatization. With the implementation of privatization, there has been a primary, if not exclusive, focus on costs and reimbursement issues.*

Advocates should ask:
- What are the budget assumptions: Privatization will save money? Redirect money? Serve more people for same money? Improve quality, but cost more?
- Is there adequate funding available to support planning, transition, and ongoing implementation to ensure that children and families get the services they need?
- Are we confident that we know what the privatization effort will cost?
- Are the rates to the private agency based upon an accurate assessment of costs that are aligned with the higher expectations for performance?
- What will the impact be on federal revenue and overall state budget?

Advocates can also urge the state to bring in an expert to do fiscal modeling to estimate the cost of the overall effort and set a fair rate for the contractors.

7. Frontline buy-in and ongoing cross-agency training are essential.
The nationwide staffing crisis for public and private child welfare agencies is well-documented and difficult to
remedy. For that reason alone, any move toward privatization may negatively affect the ability of the public agency to recruit and retain workers. Yet, too often little attention is given to ensuring that staff at all levels of both public and private agencies embrace the vision and have the knowledge and skills to succeed in new roles.

It is imperative that public staff and, if applicable, their unions be engaged in planning and that the state has a communications plan to ensure timely and accurate dissemination of information as decisions are made. Early discussion of needed supports and skill-building on at both public and private agencies is critical. Cross-training before implementation and on an ongoing basis can help foster more effective public-private partnerships.

8. **There is no perfect contract, but there must be a sound approach to procurement and contract negotiation.**

If a decision is made to privatize, the public agency and planning group must determine the best course for translating the vision into a solid procurement and implementation plan. If competitive procurement is the plan, the request for proposal (RFP) should describe in detail:

- The purpose of the contract
- The expected outcomes and deliverables
- Performance standards
- Methods for payment, including provisions for any bonuses or penalties
- The responsibilities of the contractor, the public agency, and any other partnering agencies
- The mechanisms that will be used to monitor contract compliance and attainment of goals

The process for evaluating and awarding contracts must be transparent and fair in reality and perception. The ways in which bids are evaluated, scored, and awarded can have important ramifications for the level of controversy surrounding privatization. Processes that appear open to favoritism can lead to legal and political problems.⁸

9. **Transitions are difficult and take time.**

Virtually all privatization efforts have experienced difficult transitions, even when the planning process was smooth. There should be a clear, well-articulated plan for the transition of services from public to private agencies. A detailed plan addresses the impact on current public agency operations including staff retention, other contracted services, and any additional supports needed to facilitate implementation. There must be adequate time to allow private providers to build staff capacity and resources and for the public agency to

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Tips for Advocates: Advocate for frontline voices during the planning phase, and for cross-training to ensure a stable and well-prepared workforce.

Tips for Advocates: Urge the state to release a draft procurement document to allow comments and questions from stakeholders before release of the final RFP. If allowable by procurement laws, advocates can help the public agency design its RFP and evaluation criteria and be part of the team to select the best agency or agencies to carry out the initiative.
develop the capacity to effectively support and oversee contracts. A 6 to 12-month transition process to full implementation is not unusual for a broad privatization effort.

**Example:** Florida Community Based Care (CBC) Readiness Assessment. A formal process was developed for assessing and preparing local department units and CBC agencies to safely transition services. Under the Readiness Assessment process, an external team of peer experts assessed the development of the local infrastructure and transition plans and provided technical assistance to both parties before transferring any services. A number of states have followed the Florida example and required a readiness assessment before children and families are transitioned to the private agency.

### 10. Successful initiatives continuously monitor and nurture the public-private partnership to achieve shared accountability for results.

Numerous research studies have revealed an inconsistent or inadequate approach to monitoring privatization in a way that is appropriate for a public-private partnership. In some initiatives, private providers have not been held accountable for the results they were expected to achieve, nor were they rewarded for good performance. In other cases, monitoring focused solely on what the private agency was doing with no attention given to how the public agency supported or impeded improved performance. Monitoring that focuses solely on the private agency and not on the partnership will likely miss factors that contribute to success or failure.9

The public-private partnership is also more likely to succeed with a high level of trust and ongoing open communication between the public and private agencies. As one public administrator noted:

*Success is more likely when contracts are seen as works in progress and mid-course corrections are not viewed as a sign of failure, but rather a good indicator that early warning systems are working and that both sides are willing to come together to change practices, payments, or other design elements in order to get better results.*

After privatization, it is important for states to have formal and informal structures in place to support ongoing communication and collaborative work and planning. Some public administrators have formal alliances with private agency directors and other community stakeholders in order to strengthen the public-private partnership. Some of these were legislatively mandated. In other instances they were initiated by the public agency.
**Examples:** The Florida Legislature mandated that counties or groupings of counties form inter-organizational community alliances with representatives from stakeholder groups, courts, and public and private service providers to help prepare for the transition and to ensure that efforts continue to respond to the needs and priorities of local communities. This unified front allowed agencies to more readily collaborate at the frontline level around systems improvement.

The Illinois Department of Children and Family Services established the Child Welfare Advisory Committee (CWAC) in 1995 to provide a formal mechanism for private sector input into all aspects of the state’s child welfare system. Later the state used CWAC to craft the plan, policies, and implementation of the new PBC system.

A number of states, including Texas, Iowa, and Missouri, have less formal public-private partnership committees. In Texas, the committee helped plan the state’s foster care redesign and defined key elements for the recent lead agency procurement that will test the redesign in two regions.

**Conclusion**

While reasons for privatization vary, a common theme is improving outcomes for children and families. To achieve positive results, privatization efforts must be based on an upfront assessment of the issues facing the child welfare system, careful thought about where improvement is most desired, and close scrutiny of the capacity of public agencies and private agency partners to deliver expected results. State advocates embarking on this planning and assessment and contract design work must be prepared to operate in a politicized context. Advocates may remain neutral or they may take a stance on one side of the reform. In any case, they can contribute to creating an environment that is stable, well executed, measurable, and accountable, regardless of the ultimate decision reached about privatization.

The role of the advocate does not end with the implementation of privatization. Over time, changes may be made in financing arrangements or in the overall design of an initiative. State advocates can and should help policy makers and administrators monitor and improve initiatives that are not meeting expectations.

**Where to Learn More**

The Quality Improvement Center on Privatization of Child Welfare provides many published reports and links to resources available at http://www.uky.edu/SocialWork/qicpcw/.

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Notes


