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New Hampshire Children in Need of Services

Impacts of 2011 Legislative Changes to CHINS

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'ationwide, families of children who repeatedly skip school, run away from home, or commit other status offenses1 or non-criminal misbehaviors struggle to get their children back on the right track.² Many families do not have the resources or the knowledge to properly address their child's unruly behavior on their own. Prior to the passing of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) in 1974, states dealt with this problem by removing the children from families and institutionalizing them in juvenile detention facilities. However, the JJDPA called for the deinstitutionalization of status offenders, particularly for runaways, truants, and youth who violate curfew. While it may be deemed necessary for some status offenders to be institutionalized, the current strategy at the national and state level promotes community based alternatives, diversion programs, and comprehensive treatment programs, rather than placement in detention centers.³ The expectation is that participation in these programs will deter delinquent behavior and subsequent involvement in the juvenile justice system.

In New Hampshire, a law passed in 1979 established an adjudication process by which children who meet a set of criteria are eligible for the status of Children in Need of Services (CHINS). Children eligible for this status and their families obtain treatment and support services provided by the state. This program is managed by the Division of Children, Youth, and Families (DCYF) in the New Hampshire Department of Health and Human Services, and local courts. On September 30, 2011, as the result of a legislative budget cut to CHINS and the resulting need to reduce the number of children served, the definition of who is eligible for CHINS services was narrowed to include only those children who had been

KEY FINDINGS



A change in the law governing eligibility for New Hampshire CHINS services as a result of budget cuts in September 2011 led to a steep drop in the number of CHINS petitions filed, cases found true, and the number of children and families served.

13%

Although delinquency petitions did not increase as expected, child maltreatment reports rose by 13 percent.



The change in the law affected both the amounts and types of services available to children and their families.

diagnosed with the most severe emotional problems and behavior (see Box 1).

As a result of this change, the state no longer could serve children with less serious truant, runaway, and other misbehaviors. Instead, responsibility for addressing these children's needs shifted to local communities where families, schools, law enforcement, and service providers were tasked with handling them without the resources and court-ordered support previously available to them under the CHINS law. Two years later, in September 2013, the New Hampshire Legislature reinstated funds to support broader eligibility for CHINS, allowing children with a larger range of offenses and misbehaviors to receive services again (see Box 1).

Box 1. The Change in Definition of Eligibility for CHINS (RSA 169-D:2)

Prior to September 30, 2011, the New Hampshire State Legislature defined a Child In Need of Services (CHINS) as a child who is: "1) Subject to compulsory school attendance (between ages 6 and 16) and who is habitually, willfully, and without good and sufficient cause, truant from school; 2) Under 18 years of age and who habitually runs away from home; 3) Under 18 years of age and who repeatedly disregards the reasonable and lawful commands of his or her parents, guardian, or custodian and places himself or herself or others in unsafe circumstances; 4) Under 17 years of age and exhibits willful repeated or habitual conduct that is equivalent to violations of the criminal laws of this state if committed by an adult (excluding felonies and misdemeanors); 5) Under 16 years of age and exhibits willful repeated or habitual conduct that is prohibited by the motor vehicle laws, including motor vehicle violations and misdemeanors (excludes certain motor vehicle felonies); and 6) Children identified for CHINS are assigned a Juvenile Probation and Parole Office (JPPO) to provide guidance, counseling, discipline, supervision, treatment, or rehabilitation and other needs of care." Children who met any of these CHINS criteria were eligible to receive services. Behaviors that meet the definition of delinquent were not included in the CHINS definition.

After September 30, 2011, the CHINS definition was re-written to allow only the most severe cases to receive services. Under the new law, services were available to "a child under the age of 18 with a diagnosis of severe emotional, cognitive, or other mental health issues who engages in aggressive, fire setting, or sexualized behaviors that pose a danger to the child or others and who is otherwise unable or ineligible to receive services" as a delinquent or an abused or neglected child.

Effective September 1, 2013, the CHINS definition of eligibility changed again. See Box 2 on page 9 for additional details.

Using administrative data from state and local agencies and data from interviews with CHINS professionals, this brief is an overview of participation in the CHINS program before and after the change in the law in September 2011 but before funding returned in 2013. Specifically, it examines changes in CHINS petitions filed, children served, and services provided to children and their families in the state. The study is presented as an example of the impact that state fiscal policy can have on the most vulnerable of New Hampshire's populations.

Decline in CHINS Petitions Filed

Prior to the change in the law in September 2011, a law enforcement officer, school official, service provider, or parent and/or guardian could petition the court to require the state to provide services to a CHINS-eligible child. In some instances, cases were referred to a diversion program by the courts, but most cases proceeded to a court hearing. With the change in eligibility requirements, the process of filing a petition also changed. Parents and/or guardians were no longer able to file petitions on their own. Instead, the law required that petitions be submitted to the DCYF by juvenile prosecutors, law enforcement, or service providers for approval before proceeding to the court for judicial review. A mental illness diagnosis had to be present and all non-court options needed to be exhausted to receive DCYF's approval.

One juvenile prosecutor expressed his frustration with these new procedures: "[After the change in the law] it was left up to DCYF to decide whether or not they even wanted to approve a case. My issue with that process was, simply: how can DCYF tell me whether or not I have a case to prosecute?"

Once the new definition and petition process were in place, the number of new CHINS petitions filed decreased by 96 percent in one year, from 729 petitions filed in SFY (State Fiscal Year) 2011 to 28 petitions filed in SFY 2012 (Figure 1).6

Although petitions declined, the children needing services did not. Police officers, juvenile probation and parole officers (JPPOs), truancy officers, and service providers interviewed for this study reported continued requests for petitions from parents and guardians that they had to turn away. As one police officer explained:

FIGURE 1. NUMBER OF NEW CHINS PETITIONS FILED



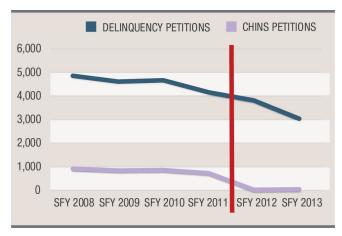
Note: The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011.

Unfortunately, we [had] to tell parents, 'Sorry, we can't help you. We can't provide you assistance through court-ordered services. You have to wait until your kid commits a crime. You have to wait until your kid pushes you or threatens to hurt you or breaks something of yours before we can get involved.' Then we can charge the kid criminally and bring him through the court system.

The professionals who deal with status offending youth on a daily basis expressed their worry that children who were no longer eligible for CHINS services would commit progressively more serious, delinquent behavior. Such crimes would require a juvenile delinquency petition for a court to hear the case. Their expectation was that the number of juvenile delinquency petitions would increase. Instead, several judges and juvenile prosecutors reported they saw no increase in delinquency cases. Their observations are supported by data on petitions from DCYF. These data show that between 2011 and 2012, the number of juvenile delinquency petitions saw a slight decrease of 8.5 percent (see Figure 2).

The failure of delinquency petitions to spike likely reflects the short period of time that these data describe, too brief to determine if an increase would have occurred had the NH Legislature not intervened and reversed the law in 2013. However, there is some evidence that the

FIGURE 2. NUMBER OF NEW CHINS AND DELINQUENCY **PETITIONS FILED**



Note: The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011.

trajectory of children moving toward delinquency had begun. Child maltreatment, one of the risk factors for delinquency, increased as predicted. DCYF reports that, between 2010 and 2012, maltreatment reports grew by over 1,100 or by approximately 13 percent. Had the law not changed back, eventually these higher child maltreatment statistics might have translated into higher rates of status offenses and delinquent behavior.⁷

Another possible reason that delinquency did not increase is the voluntary, informal involvement by police officers, truancy officers, and JPPOs, some of whom reported that they did what they could to help families even though they could no longer offer CHINS courtordered support. For example, they talked to parents and children about the long-term consequences of the child's behavior or provided resources and referrals. As one police officer explained:

[Parents] are at a loss. They're coming to us, looking for help, and we can't provide it because the law doesn't allow us. We can certainly send an officer over and counsel the juvenile, give them some encouraging words. We do that constantly. But we don't have any teeth. We can only say, this is what you have to do. If they don't do it, there are no repercussions.

Decline in Petitions Found True

The change in the law in 2011 did not change the court procedure for filing a CHINS petition. A CHINS petition filing results in an initial appearance by the child in court where the judge explains the formal charges and constitutional rights of the child. At this time, the child is assigned an attorney if the family is unable or unwilling to provide one. The child appears in front of the judge again at an adjudicatory hearing where the child has the opportunity to plead true and avoid going to trial. If the child chooses not to plead true, evidence is presented and witnesses take the stand. Parents or guardians may take the stand to help the prosecution prove the case against the child. In interviews, several professionals expressed concern over this procedure, including a juvenile prosecutor who explained:

If push comes to shove and I end up in a trial or an adjudicatory [hearing], I'm going to end up needing that parent to testify against that kid. That's how it's viewed, pinning the parent against the child. These kids are often already involved in broken homes. So, you're now taking those homes that are already broken and deteriorating them even further. Some parents, rightly so, just simply aren't strong enough to do it. That makes it really difficult for us because at the end of the day, if I can't prove my case, I can't help those kids. I can't get them any services. I can't get anything put into place unless I can prove my case once it goes to the court level.

If the judge finds the CHINS petition true beyond a reasonable doubt, the child is assigned to a JPPO. The JPPO meets with the child and makes a recommendation to the court at a dispositional hearing as to the least restrictive and most appropriate course of action to improve the child's behavior.

Of the number of petitions filed, only a small percentage are found true each year. A petition is "found true" when it is proven beyond a reasonable doubt in court. In SFY 2011, 21 percent of CHINS petitions filed were found true. That percentage increased to 43 percent in SFY 2012 and then decreased slightly to 34 percent in SFY 2013. The total number of petitions found true dropped 92 percent between SFYs 2011 and 2012. Figure 3 shows that the numbers of petitions found true each year has followed the same declining trend as the number of petitions filed.

FIGURE 3. NUMBER OF CHINS PETITIONS FOUND TRUE EACH YEAR



Notes: 1. A petition is found true when it is proven beyond a reasonable doubt. 2. These numbers may include petitions that were filed in the previous year and found true in the reporting year. 3. The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011.

The process of finding a CHINS petition true and providing court-ordered services to a child can take several months. During that time the child may continue to engage in status offending behaviors. As one juvenile prosecutor described:

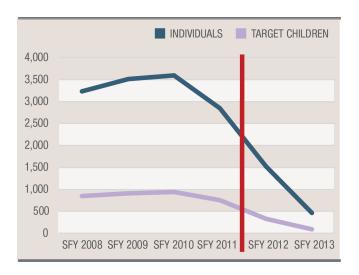
In order for us to even get to the point where we can offer this kid services, we're talking months. We're talking about the investigation happening, the police department being able to file a petition, then you're talking about the time frame from filing the petition to when the first [court] appearance happens. Then you're talking about having another few weeks' window before the trial is scheduled. That's, of course, assuming that the trial happens on the day it's supposed to. Then assuming that the kid is found true, you're talking about another thirty days potentially for the dispositional hearing. All of that time passes before we get to offer this kid services. The behavior is either continuing at the same rate or it gets worse. Very rarely does it get better. Usually the kid who is truant is not going to school more in that time frame, he's going less.

Decline in Children and Families Served

A child's behavioral problem can be an indicator of a larger family issue, for example, child neglect or substance abuse by family members in the home. Court-ordered treatment or services often includes addressing these familial issues. Thus, the number of individuals involved in the CHINS program will include not only the child but parents, siblings, and possibly other family members as well.

From SFY 2011 to SFY 2012, the number of children who received services as a result of a CHINS petition, declined 56.2 percent, from 751 to 329. The decline continued from SFY 2012 to SFY 2013 by 73 percent for a two-year decline of 88 percent. At its lowest point in SFY 2013, CHINS was serving 89 children (see Figure 4).

FIGURE 4. NUMBER OF CHILDREN AND RELATED INDIVIDUALS INVOLVED IN THE CHINS PROCESS



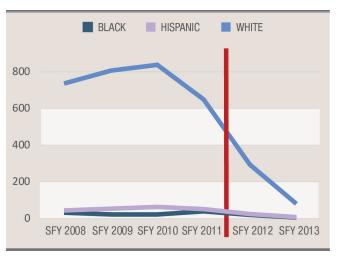
Notes: 1. "Individuals involved in CHINS" refers to all clients that are participating in a case, including siblings, parents, and other family members. 2. The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011.

The involvement of families in CHINS decreased similarly, by 47 percent between SFYs 2011 and 2012 and another 70 percent between SFYs 2012 and 2013. At its lowest, in 2013 before the new law went into effect, 462 individual family members were served (see Figure 4). These declines are evidence that the change in the CHINS law not only reduced the numbers of children receiving services but impacted entire families as well.

Black and Hispanic CHINS Involvement Increases

New Hampshire children involved in the CHINS program are a small proportion of the population of children overall, less than one percent. The majority of these children, like the population of New Hampshire overall, has always been white (80 percent in SFY 2013). Their percentage of CHINS increased until SFY 2011 when it began a decline that continued through 2013. Consequently, the declines shown in the preceding figures largely represent the drop in the numbers of white CHINS as a result of the change in the law (see Figure 5).

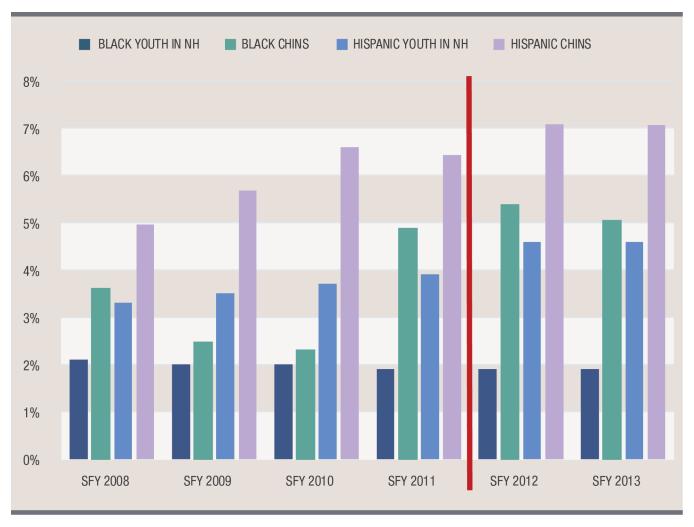
FIGURE 5. NUMBER OF CHILDREN SERVED BY THE **CHINS PROCESS BY RACE/ETHNICITY**



Note: The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011.

By contrast, the percentage of CHINS who are black or Hispanic has increased slightly over time. Between SFYs 2008 and 2013, the trend for Hispanic children in CHINS showed an increase from 5.0 percent to 7.1 percent, with no apparent impact from the change in the law. The trend for black children is less linear, but their involvement in CHINS has grown from 3.6 percent in SFY 2008 to 5.1 percent in SFY 2013. A small decrease in the percent of black CHINS between SFY 2012 and 2013 may indicate a beginning of a downward trend. However, for both groups, they continue to represent a higher proportion of youth in CHINS than their proportion of New Hampshire's youth population overall (see Figure 6).

FIGURE 6. PERCENT OF BLACK AND HISPANIC CHINS COMPARED TO PERCENT OF BLACK AND HISPANIC YOUTH IN NEW HAMPSHIRE



Notes: 1. The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011. 2. Figures for black youth in New Hampshire and Hispanic youth in New Hampshire are the percentages of the black or Hispanic population in New Hampshire who are 5 through 17 years of age, up to the 18th birthday.

Time in CHINS Decreases

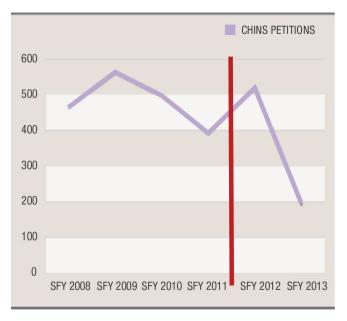
The time that a child may be served as a CHINS can vary widely depending on circumstances, sometimes lasting longer than a year. Between SFYs 2011 and 2012, DCYF reported a sharp increase of 132 percent in the average number of days that a CHINS case remained open, from 393 days to 520 days (see Figure 7). There was then a sharp decline between SFYs 2012 and 2013, by 62 percent, down to 196 days.

One explanation for the increase in 2012 is that the decline in children served as a result of the change

in the law reduced the number of cases that could be closed. However, the number also reflects the closing of cases in which children no longer met the eligibility requirements for further services. A supervisor in a Juvenile Probation and Parole Office described the circumstances after the law changed in her jurisdiction:

In just one office, we had 65 cases that were closed. What we did is, we talked to the families and we also talked with our judges and said that we would do whatever we could to keep certain cases open that did meet the

FIGURE 7. AVERAGE LENGTH OF A CHINS PETITION IN DAYS



Notes: 1. The red vertical line represents the approximate effective date of the change in the CHINS law on September 30, 2011. 2. Average length of a CHINS case is calculated using the number of cases closed in that SFY.

new statutory requirement. So we were able to do that. Those were really our high end kids who were in placement. It had a significant impact on our caseloads.

Service Delivery Challenged

The impact of the 2011 change in the CHINS law was experienced not only within the CHINS program but in communities as well. Truants, runaways, the less severely mentally ill, and other children with behavior problems, along with their families, had fewer services and supports available to manage or help them. This situation put those who normally worked with these children and their families in an often powerless or conflicted position. The following examples illustrate their frustrations.

Truancy at an early age has been found to increase the likelihood of engaging in delinquent behavior during adolescence. It has also been linked to chronic unemployment and criminal behavior in adulthood, all arguments for requiring children to attend school. However, when the change in the CHINS law removed truants from those eligible for CHINS, the state lost the means for delivering consequences to

students who skip school. Administrators at several schools reported increased truancy problems as a result. One superintendent commented:

[Before the CHINS law changed] there was word on the street with students that if you don't attend school, you're going to be taken to court. And that was enough for some students to get better at their attendance. Not all students, but some students certainly. Once CHINS went away, word on the street was really that they can't touch you.

Research has shown that runaways experience higher rates of family problems, such as sexual, physical, and psychological abuse and parental drug use.¹⁰ While on the street, runaway youth have a tendency to engage in high-risk behavior, such as substance use, shoplifting, and drug dealing, and are at a higher risk for sexual victimization. When the CHINS program was no longer an option for runaway youth, homeless youth service providers reported an influx of children needing to access their resources who were not normally their target population. As one homeless service provider explained:

Our services were designed for young people who were struggling for basic needs and stability in their housing, not necessarily those perpetually running away by their own choice. So we were using resources and staff time and all those sorts of things to try and provide some services for these runaway youth that were flipping through the system because CHINS no longer existed. I think one of the things that we found really difficult was that there were some young kids that we came across who were continually running away from home and putting themselves in really risky situations.

A JPPO provided an example, describing an incident involving a young girl who had run away from home and was living on the street:

She was the victim of human trafficking. She was 11-and-a-half, almost 12, and kept running away from home. She was prostituted to more than twenty offenders over a ten-week period. Had she been able to come in as a CHINS, we could have gotten to her early. And even more than that, what really bothers me about this case, is that she had to come in under the charge of prostitution. So now,

in her mind, she's been charged as a prostitute. And what that does to her self-image is significant. She's not even 12. So what we did to take that label away after she had already come in on the prostitution charge, was change it to a disorderly conduct, but really she should have been a CHINS child for habitually running away, but the police couldn't do it. Out of fear for her safety, they went and did the prostitution charge, but I can tell you that every detective on that case still struggles with the fact that they had to do that, morally. But their hands were tied.

Issue of Mental Illness Spotlighted

When the law changed in September 2011, a mental health diagnosis was required for a CHINS petition to receive DCYF's approval, resulting in a 100 percent mental illness rate. This high rate has brought attention to one consequence of the narrowing of CHINS eligibility: the issue of who should be responding to the problems of mentally ill CHINS. Several CHINS professionals reported their concerns that courts, rather than the mental health system, now have a primary responsibility for some mentally ill children. As one JPPO said:

In the last five years, [I have seen] a dramatic increase in the number of children coming in with Asperger's or falling somewhere on the autism spectrum. They have more developmental disabilities. ... These children with pervasive developmental disabilities should go through the Department of Behavioral Health to get the support they need or placement, rather than having to experience the high anxiety of going through the juvenile justice system and through the court process. These children should not have to come through the juvenile justice system where true delinquent kids come through or the habitually truant kids come through.

A judge expressed a similar concern:

I think there's a much better way to handle children with mental illnesses, but CHINS is the only alternative right now. I think the better way to handle them is through the mental health system, not through the court system. Often times I feel silly having hearings because

it still is a courtroom, it still is a courthouse, it still is the legal system. But that's not why we're here. That's what we're supposed to be here for, but when we're dealing with kids with mental health issues, that's the last thing that we're concerned about. We're concerned about what to do with this child. We're basically becoming a social service agency. But there's no alternative. Who else is going to deal with them? There really is no other alternative. The courtrooms are becoming the new emergency room.

The CHINS Program Restored

In July 2013, the NH Legislature passed HB 260-FN, effective September 1, 2013.11 This bill restored the previous definition of CHINS eligibility while adding language that allowed for voluntary services to be provided (see Box 2). Now eligible children can be referred to DCYF directly by police officers, schools, and service providers for voluntary services without being processed through the court system first. If the parents or guardians and the child agree to voluntary services and DCYF approves, the child can receive services. The expectation is that bypassing the court will facilitate faster service delivery to children and eliminate the stigma created by being brought before a judge in a courtroom. However, if all parties cannot agree on voluntary services, the parent, guardian, or petitioner may still proceed with filing a CHINS petition with the court.¹² These changes in the CHINS law were made to increase the likelihood that eligible children will receive appropriate services without compromising the state's need to protect communities from the problems that troubled children can create.

Conclusion

The 2011 legislative budget cuts to the CHINS law severely limited the number of CHINS petitions filed, cases found true, and children and families who were eligible to receive services. Interviews with professionals who deal with troubled or disconnected youth on a daily basis revealed that the effects of the budget cut impacted not only the children who would have previously been eligible for services, but their families, schools, communities, and local service providers as well. The absence of CHINS as a resource for truant, runaway, and stubborn and unruly children underscored the need for such a program in New Hampshire. Without the program,

Box 2. Restoration of Services for CHINS: House Bill 260-FN (RSA 169-D:5-c)

House Bill 260-FN passed in the 2013 legislative session with an effective date of September 1, 2013. This bill reinstated the broader criteria for CHINS eligibility and added language allowing a system of voluntary services. It states that with DCYF's approval, "The department shall assess whether to offer the child and family, on a voluntary basis, any services permitted under [the CHINS law] except out-of-home placement of the child. The department may decline to offer services to a child or family if it concludes that the child does not meet the definition of child in need of services ... or if the department otherwise determines that voluntary services are not appropriate for the child or family. ... Voluntary services provided under this section shall not exceed nine months, unless the department determines that an extension for an additional, specified period of time is appropriate." The NH Legislature also provided for funding the larger number of CHINS cases that were expected to result from expansion of eligibility.

parents, schools, and law enforcement officers had limited options available to them for responding to children's behaviors. This situation, had it continued, could have led to an increase in delinquent or criminal behavior over time with ultimately more serious consequences for New Hampshire's communities. However, the decision by the NH Legislature in 2013 to restore eligibility to a broader range of children and to provide funding makes such a scenario unlikely and, instead, re-establishes a support system for these troubled or disconnected youth and their families.

Endnotes

- 1. A status offense is an act that would not be a crime if committed by an adult, including truancy, running away, incorrigibility, violating curfew laws, and violating underage drinking laws.
- 2. The National Council of Juvenile and Family Court Judges, "Judicial Perspectives on the Deinstitutionalization of Status Offenders in the United States with Recommendations for Policy and Practice," available at www.ncjfcj.org/ sites/default/files/DSO%20Issues%20Bulletin%202012%20 FINAL%20CORRECTED.pdf.

- 3. The Office of Juvenile Justice Delinquency Prevention, "Deinstitutionalization of Status Offenders Best Practices Database," available at www.ojjdp.gov/dso/dsoAbout.aspx.
- 4. The New Hampshire General Court, "Title XII Public Safety and Welfare: Chapter 169-D Children in Need of Services," available at www.gencourt.state.nh.us/rsa/html/ XII/169-D/169-D-2.htm.
- 5. New Hampshire KIDS COUNT Data Book 2010/2011, "Safety and Wellbeing: Court-Involved Youth," available at www.childrennh.org/web/Kids%20Count/Safety/72%20 Safety%20and%20Wellbeing_court-involved%20youth.pdf.
- 6. In this and subsequent figures, numbers declined beginning in 2010, prior to the change in the CHINS law. The reasons for this decline are unknown and were not observed by the professionals who were interviewed. Several possible explanations could include: a normal fluctuation, a trend that mirrors the gradual decline in juvenile delinquency rates that has steadily occurred since the mid-1990s, or a trend that parallels the beginning of a drop in New Hampshire's unemployment rate. When unemployment rates are high, as they were prior to SFY 2010, adults are home more often, which means a decrease in household income and an increase in family strain, particularly if the parent or parents are using substances in the home. As more parents returned to work in 2010, there may have been fewer opportunities for conflict in the home, which could attribute to the decline in the number of CHINS petitions prior to the change in the CHINS law.
- 7. C. S. Widom, "Understanding Child Maltreatment and Juvenile Delinquency: The Research," Understanding Child Maltreatment and Juvenile Delinquency: From Research to Effective Program, Practice, and Systemic Solutions, editors J. Wiig and C. S. Widom (Washington, DC: CWLA Press, 2003), available at www.cwla.org/programs/juvenilejustice/ ucmjd03.pdf.
- 8. National Alliance on Mental Health, "ABCs of the CHINS Process: A Parent's Guide," available at www.naminh.org/ uploads/CHINS2009.pdf.
- 9. Bill Henry et al., "Staying in school protects boys with poor self-regulation in childhood from later crime: A longitudinal study," International Journal of Behavioral Development, vol. 23, no. 4 (1999): 1049-1073.
- 10. Howard Meltzer et al., "Children who run away from home: Risks for suicidal behavior and substance misuse," Journal of Adolescent Health, vol. 51 (2012): 415-421.
- 11. The New Hampshire General Court, "HB 260-FN: Final Version," available at www.gencourt.state.nh.us/legislation/2013/HB0260.html.
- 12. If the legislatively-appropriated funds are not sufficient to support the voluntary service provision, voluntary services will be suspended.

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