

Kathryn Piper, JD, PhD, Letter to the Legislative Task Force on Child Protection

I am submitting this testimony to support SF 3692/HF 4385 and the implementation of key recommendations from the 2015 Governor's Task Force on the Protection of Children.

Credentials: I am an attorney with a doctorate in social policy. For 19 years I represented children in child protection proceedings in Vermont. I then obtained a doctorate degree in social policy at Brandeis University. The topic of my dissertation was Differential Response in Child Welfare. Over the past eight years, I have been researching policies and child safety outcomes for children in states which have implemented differential response (DR) programs. Most recently, I co-authored a policy report on DR which was adopted and published in December 2019 by the Center for Child Policy at the American Professional Society on the Abuse of Children (APSAC). The full text of the report can be found at www.centerforchildpolicy.org.

Summary of APSAC Policy Report on DR

The APSAC policy paper analyzes both the published and unpublished research and literature produced between 2011 and 2018 about DR and its impacts on children and families served by public child welfare/child protection agencies. In short, the paper concludes that there are significant problems in research methods that call into question claims about the effectiveness of DR and the safety of children served through this program. Findings also contradict two underlying assumptions used to support DR, including: 1) DR programs accurately differentiate high risk from low risk families at the intake level, and 2) service utilization is higher for families served on the voluntary "alternative response" (AR) track, known in Minnesota as Family Assessment (FA), than families on the "traditional" track due to AR's "family friendly" approach. This paper provides recommendations to improve the implementation of DR, including recommendations to ensure that child safety is not compromised. The recommendations set forth in the APSAC report on DR are fully consistent with the Governor's Task Force recommendations described below.

What is APSAC?

APSAC disseminates state-of-the-art practice in all professional disciplines related to child abuse and neglect. APSAC's membership represents a multidisciplinary group of over 1400 professionals working in the field of child maltreatment.

What's happening in other states?

As of 2014, 22 states and the District of Columbia had implemented DR programs statewide, and six more states had implemented the program in individual regions or counties. However, as of 2018, twelve states that had tried DR reform had discontinued the program, suspended it, or had elected not to expand it statewide. This was due, in part, to growing concerns about potentially detrimental consequences of DR programming on child safety, particularly in jurisdictions that had abandoned fact finding. Several changes in policy were brought about by fatalities of children due to abuse or neglect whose cases had been assigned to the alternative/assessment response (AR) in DR programs.

Conclusions and Recommendations in APSAC report:

1.Intensive fact-finding is essential to an accurate assessment of risk: Research findings in several states have challenged the fundamental assumption underlying DR philosophy, that is, that families reported to Child Protection Services (CPS) can be accurately sorted by risk level at the time of initial screening without full fact-finding by a trained social worker. Research has identified an alarmingly high percentage of families at high to intensive risk assigned to the AR track in several states. A thorough assessment of risk is essential to accurate track assignment. This must include a review of CPS, Department of Corrections and court records as well as interviews with children, parents, household members and collateral sources.

Several practices associated with DR programming undermine an accurate determination of maltreatment and level of future risk. For example, the AR practice of scheduled versus unannounced initial visits with the family gives parents the opportunity to prepare and potentially pressure the child not to disclose maltreatment or to recant prior disclosures. Foregoing intensive fact-finding in an effort to remain “family-friendly” runs the risk of not uncovering maltreatment and/or chronic conditions like parental substance abuse, mental illness or domestic violence that may underly the maltreatment. The AR practice of conducting co-joint family interviews may inhibit disclosure of critical information unfavorable to the parents. Under AR practice, co-joint family interviews may include the child, parents/caregivers, siblings, other members of the household and even collateral sources of information such as neighbors, extended family or friends.

2.Interviewing the child separately from and prior to notification to parents: It is not a safe situation for a child to have to disclose abuse in the presence of the abuser. It is the same with adult victims of domestic violence (DV). The Governor’s Task Force recommendation in this regard is consistent with widely accepted protocols for interviewing child and adult victims of domestic violence and maltreatment. Such protocols help ensure that intimidation and conflicting loyalties will not affect the willingness of victims to make full disclosures about what is happening in the family.

2.High rates of AR utilization lead to a greater proportion of high-risk cases assigned to the AR track. Several studies have demonstrated that the higher the proportion of reported cases that are assigned to the AR track, the higher the proportion of high-risk cases on the AR track. Given that only low- to moderate-risk cases are supposed to be assigned to the AR track, one would assume that the rate of re-reporting of maltreatment in cases on the AR track would be lower than that of cases on the traditional investigation track. In fact, my study showed that to be the case **only when less than 33% of reported cases were assigned to the AR track.** Research findings suggest that in states with high rates of AR utilization, eligibility criteria for the AR track and screening practices are not accurately distinguishing low vs. high risk cases.

Track Assignment in Minnesota

In Minnesota, in past years, 70% of reports were assigned to the AR track. The Minnesota Governor’s Task Force on the protection of children concluded in 2015: “Minnesota’s use of family assessment [AR] is beyond that of other states and beyond what the statute allows. The use of family assessment continues to rise despite the fact that the re-report rate for family assessments has been higher than family investigations in five of the last seven years” (Heimpel, January 8, 2015; Minnesota Governor’s Task Force on the Protection of Children, 2015, p. 12). According to the 2018 report recently released by the Department of Human Services, 59% of cases still get assigned to FA despite the strong recommendation from the Governor’s Child Protection Task Force that only low to moderate risk cases should be tracked to FA.