

## **Maya's Law – Limited but Meaningful Progress on Child Safety**

Maya's Law passed last week on the final day of the 2022 Minnesota legislative session.

Introduced by [Foster Advocates](#), the bill requires workers to interview foster children separately from foster parents, keep a record of what was discovered during Family Assessments, and interview alleged maltreatment victims separately from adults if Substantial Child Endangerment or sexual abuse is alleged. (See [Omnibus Bill](#) lines 269.10-269.21 and 286.23-287.10).

This latter provision represents limited progress because the severity of maltreatment can't be assessed reliably just from information received in a phone call. Realistically, separate interviews of children prior to the adults plus fact-finding procedures are always needed. However, as [The Imprint](#) reports, even this small improvement was controversial.

Fortunately, the state and counties have agreed to continue discussing these practices. As a result Maya's Law represents modest but meaningful progress towards improved child safety.

## **Narrative for podcast on Maya's Law**

First that we share with you a little bit about the process that led to Maya's law being passed.

If you have followed us at all over time you know that this bill includes several provisions that Safe Passage for Children has been promoting for a number of years.

This year we partnered with Foster Advocates, a relatively new and dynamic nonprofit that advocates for systemic improvements particularly in areas affecting Fosters, which is their term for individuals currently in foster care or who have been in foster care.

Foster advocates took the lead in this legislation this year and Safe Passage played a supportive role. Between our organizations we were able to get enough support from both sides of the aisle and in both the House and Senate to get the bill through.

Originally Safe Passage wanted the bill to include that all children must be interviewed separately from and prior to the adults living in a household, and also to end the practice of giving advance notice of the initial child protection visit. These are both recommendations from the 2015 Governor's Task Force on the Protection of Children which have not been accepted and implemented by the Department of Human Services and Minnesota counties.

The provision to stop giving advance notice proved to be too difficult to do politically so it had to be dropped from this bill.

We also wanted more explicit requirements regarding Family Assessment specifically that the record had to show whether maltreatment occurred and if so who were the victim and the perpetrator. We ended up with a provision that just says the results of the Family Assessment have to be put in the case file.

The provision to interview children separately got reduced down to saying “whenever possible interview children separately if there are allegations of Substantial Child Endangerment or sexual abuse.” The problem with this is the old “you don’t know what you don’t know” issue. As we know from research, two thirds of child protection allegations turned out to have at least one more form of maltreatment involved and one third have five or more. So what happens between the allegation made in the initial phone call and the final results of an assessment or investigation is quite significant.

Perhaps Ariana Guerra, from Foster Advocates states it best in this quote from The Imprint article.

“Just as we would handle a criminal case where an individual is assaulted on the street, we would never force this victim to make their statement in front of their perpetrator and we would certainly never let that person drive the victim home.” “So why is this acceptable for our most vulnerable children?”

Given this, one interpretation of what happened is that the bill lost so much of its original content that it ended up essentially codifying the existing and inadequate practice. But the process itself was such that it opened up lines of communication and conversation with the association representing Minnesota’s counties, the Department of Human Services, the County Attorneys and other stakeholders which in itself is a bit of a breakthrough and creates a reasonable hope that between now and the next legislative session we can work on some of these issues further.

But it begs the question of how these practices have taken root. The ideas that you can assign a level of risk to a case before doing any fact-finding, that fact-finding is not universally required, that you can give the adults in the household 3 to 5 days advance notice before the child protection worker arrives and not expect them to coach and intimidate the child, and that you can interview the child in front of the adults and get information from them that you need to keep them safe seem so illogical that it leaves me at a loss for words to further argue the case.

Other people also share this reaction to these practices. I have talked with hundreds of people about these practices and each time I explained them their jaws drop. They say things like “I can’t believe it” and “I must’ve misunderstood you” and “how can they do that to a little child”.

So where is the support for this these practices coming from and why have they persisted despite research showing they are ineffective and recommendations from a blue-ribbon task force that they be ended?

If you read Mina Farrah’s article closely you will see that the reasons given to support these practices have to do with concerns about systemic racism, and the belief the child protection workers treat parents poorly. I believe that is the meaning behind the comments about poorly trained workers and workers who do not understand the African-American culture. I think this is looking at child protection through an ideological lens rather than a child centric lens. Nevertheless this view of the system makes the support for these Family Assessment practices understandable.

We have said for a long time that if your goal is to get racial bias out of decision-making the child protection system, or to minimize it as much as humanly possible, it won’t work to just train people in anti-racist practices. It has been known for a long time in human resources that if your goal is to train people in ways that actually change how they operate, you first have to supervise people trying to apply training hands-on within a day or two of receiving it. This is the whole idea of “use it or lose it”. And in addition it is necessary to start practices such as reviewing cases in team meetings to identify where similar situations got treated differently, and to have standards accompanied by a quality review program so it will be possible to identify any patterns where white families are treated differently from BIPOC families. Then finally there needs to be a process to follow up and correct any problems that are identified. This is human resources research as old as the hills. If we did these steps in Minnesota we might have a much higher degree of confidence that we have identified any root causes of bias and corrected them, and that the system is working fairly, so the conversations we have can focus more on child safety and well-being.

To be clear taking good management steps like these will help but will not eliminate racial disparities in child protection or foster care caseloads because those disparities are also being driven by other factors, including that concentrated poverty is the biggest single reason that families get embroiled in the child protection system. I have quoted previously from a 2012 article by Emily Putnam Hornstein and others which demonstrated that, once concentrated

poverty is accounted for, the rate of referral to child protection and subsequent placement in foster care is very similar between African-American and white children. In fact Black children are screened into child protection and subsequently sent to foster care at a slightly lower rate so as we have said more than once, we should be focusing at least some of our resources and attention on dealing with poverty, which in turn is caused by systemic racism, and not focus on bias in decision-making to the exclusion of everything else that is contributing to the problem.

Another allegation referenced in the article is that practices like interviewing the adults and children together builds trust between parents and workers. The ability to engage parents more readily is in fact one of the primary rationales for the Alternative Response approach, or Family Assessment.

But this too is not logical. It doesn't matter how you approach a parent if you're from child protection services they almost certainly do not want you in their lives. It doesn't matter how pleasant you are. Again as we have said in the past compare this to any similar situation with an adult let's say you just robbed a convenience store and assaulted the clerk. Then the police come to your door and say "would you like some services from law enforcement?" The answer of course is going to be no thank you or perhaps something worded more strongly.

And in fact research backs this up. In 2019 Katherine Piper, on behalf of the American Professional Society on the Abuse of Children, or APSAC, did a meta-analysis of 50 articles evaluations and papers related to Alternative Response programs in the states. She found consistently that the uptake of services was very low. We found the same in a study that we helped work on in 2013 with the Institute for Child development at the University of Minnesota. That was with cases in Hennepin County. We found that 62% of Family Assessment cases were closed voluntarily at the request of the parents. Some of the remaining cases were referred for services but in the end only 11% actually connected with the services in that case plan.

Parenthetically that's one thing that we did get with the 2015 Governor's Task Force, namely that no child protection case is voluntary and in addition the County human services department has to consult with the County Attorney before closing the case if the parents have been uncooperative.

So the assumption that a kinder gentler approach would get more parent engagement are just not supported by any empirical data in fact just the opposite.

As for the issue of removing children inappropriately from Black families, as we have said many times in the past it's virtually impossible to address this and related issues without statewide standards and a quality review process to ensure that the standards are being followed. This is an equity issue. With such a process, problems can be identified and corrected, and therefore stakeholders will have more confidence that the system is working fairly. All of these together point to the need for a system that is upgraded to one that is consistent throughout the state, has standards for the entire child protection in foster care process, has robust quality programs, and in short is a "learning organization," meaning that it is continually improving. A program like this would eventually gain the confidence of its stakeholders and the communities that use child protection services, and we can go back to making policy on based on the safety and best interests of children.

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