

NOTE
PREVENTING CUSTODY RELINQUISHMENT FOR YOUTH WITH
MENTAL HEALTH NEEDS: IMPLICATIONS FOR THE STATE OF UTAH

*John A. English**

INTRODUCTION

I told Mr. Erhardt that I did not like the form, and that he should come back after I had thought about it and talked to a lawyer. I told him I might want to add a stipulation or an addendum to the form. Mr. Erhardt seemed reluctant to leave, and I felt pressure from him to sign it right away. Mr. Erhardt then called me on December 20, December 23, and December 27. Each time I told him that I was not a neglectful mother and did not want to waive either my own rights or those of my child, as the form seemed to require. Mr. Erhardt told me that if I signed the form I could still take Jay home any time I wanted to. I didn't think that is what the form said, *and when I asked Mr. Erhardt to write that on the form he refused.*¹

The above passage is taken from the affidavit of a parent who was a plaintiff in a class action lawsuit brought against the state of New York. She, like many others around the nation, have been forced to make an excruciatingly painful choice: either relinquish legal custody to the state to obtain needed services, or continue to struggle with the painful and devastating effects of the untreated mental illness of her child. For years, parents and guardians of youth with complex mental health needs have struggled to find adequate services. This problem is neither new, nor unrecognized. In 1999, the National Alliance for the Mentally Ill (NAMI) issued a report: *Families on the Brink: The Impact of Ignoring Children with Serious Mental Illness.*² This nationwide study found that 23% of all respondents were told that they must give up custody of their child in order to get needed mental health services, and that 20% actually went through with custody relinquishment.³ Several commentators have recently described this problem at the national level, identified the root causes, and discussed potential solutions. In fact,

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¹ Joyner by Lowry v. Dumpson, 712 F.2d 770, 783, n.11 (2d Cir. 1983) (quoting affidavit of one of the parent plaintiffs in a class action lawsuit challenging a New York policy which required custody relinquishment in order to obtain mental health services for children.).

² See NATIONAL ALLIANCE FOR THE MENTALLY ILL, *FAMILIES ON THE BRINK: THE IMPACT OF IGNORING CHILDREN WITH SERIOUS MENTAL ILLNESS* (1999), http://www.nami.org/Content/ContentGroups/CAAC/Families_on_the_Brink.pdf.

³ *Id.* at 6.

the *Journal of Law and Family Studies* has within the last five years published two articles discussing this problem at the national level.⁴ This note will describe in more depth how the problem manifests itself in the state of Utah, and offer some specific proposals for solving the problem.

Part I briefly describes the nature of the custody relinquishment problem and uses a recent Washington Supreme Court case to illustrate some of the policy implications posed by this problem. Part II discusses the legal implications of custody relinquishment, framing it as a societal problem best addressed through a comprehensive and collaborative effort between advocates, service providers, and state agencies. Part III discusses a program the city of Milwaukee has piloted in an effort to combat the root causes of custody relinquishment. Part IV demonstrates the ways in which this problem is manifested here in the state of Utah, and describes some promising steps being taken by Salt Lake County's Third District Court. Part V offers specific recommendations for moving toward an integrated system of youth mental health care that keeps families together and eliminates the need for custody relinquishment.

I. THE NATURE OF THE PROBLEM

This problem has been well described by other commentators,⁵ but a brief description is warranted. Why does custody relinquishment happen? There are two basic reasons. First, private health insurance plans often limit mental health benefits. Those plans that do offer mental health services are often woefully inadequate in meeting the needs of children with severe or complex conditions. Many of these plans don't cover intensive home-based services or residential treatment at all.⁶ Second, state Medicaid programs cover only certain low income and medically needy children, leaving an enormous gap for the roughly forty-seven million uninsured in this country, many of whom are children. As a result, families in crisis seek services from state child welfare systems. Many of these systems—including Utah—enact policies that require children to become wards of the state in order to receive matching federal funds to pay for intensive mental health treatment. These policies are often based on an erroneous belief that states are

⁴ See Rebecca G. W. Random, *Custody Relinquishment to Obtain Mental Health Services*, 7 J.L. & FAM. STUD. 475 (2005); Tracy J. Simmons, *Relinquishing Custody in Exchange for Mental Healthcare Services: Undermining the Adoption and Safe Families Act's Promise of Reasonable Efforts Towards Family Preservation and Reunification*, 10 J.L. & FAM. STUD. 377 (2008).

⁵ See, e.g., Random, *supra* note 4; Simmons, *supra* note 4; Gwen Goodman, *Assessing Mental Health Care for Children: Relinquishing Custody to Save the Child*, 67 ALB. L. REV. 301 (2003).

⁶ JUDGE DAVID L. BAZELON CENTER FOR MENTAL HEALTH LAW & FEDERATION OF FAMILIES FOR CHILDREN'S MENTAL HEALTH, *STAYING TOGETHER: PREVENTING CUSTODY RELINQUISHMENT FOR CHILDREN'S ACCESS TO MENTAL HEALTH SERVICES 2* (1999), available at <http://www.bazelon.org/issues/children/publications/stayingtogether/index.htm> (follow "Title page, contents and foreword" hyperlink).

ineligible for federal matching funding unless the child is a ward of the state, which in turn, is related to Medicaid eligibility requirements.⁷ A significant percentage of parents have incomes too high to qualify for Medicaid, but not enough to fund the intensive mental health services their child needs.⁸ Placing the child in state custody is used as a way to eliminate the parental income as a factor in qualifying for Medicaid.⁹ Thus, a perverse outcome is created: parents who seek treatment for their children in order to keep their families intact are forced to do just the opposite in order to access critical services.

A. In re Dependency of Schermer: *The Problem Illustrated*

In re Dependency of Schermer,¹⁰ a recent Washington Supreme Court case, provides a powerful illustration of the custody relinquishment problem. *Schermer* seems paradoxical at first glance. While so much has been written about parents being forced to *relinquish* custody, this case dealt with an action brought by the parents to force the state of Washington to *assume* custody of their child.¹¹ However, the underlying problem is the same: families with children who have serious mental health conditions have no way to access or pay for critical services without giving up custody. Thus, *Schermer* is not so important for its holding, but because it shows the critical need for children's mental health services, and the devastating effect that inadequate services can have on families.

"Henry Schermer was born on February 7, 1990."¹² From an early age, he "had difficulty learning and socializing with other children."¹³ In an effort to mitigate his difficulties, Henry's "mother home-schooled him for a [period of] time."¹⁴ Henry's behaviors began to worsen with adolescence.¹⁵ "He began having night rages and bouts of weeping that lasted for hours," and "suicidal thoughts."¹⁶ He began cutting himself and reporting that he heard voices telling him to kill members of his family.¹⁷ Out of desperation, the Schermers placed Henry in a

⁷ U.S. GEN. ACCOUNTING OFFICE, REPORT TO CONGRESSIONAL REQUESTERS: FEDERAL AGENCIES COULD PLAY A STRONGER ROLE IN HELPING STATES REDUCE THE NUMBER OF CHILDREN PLACED SOLELY TO OBTAIN MENTAL HEALTH SERVICES 28 (2003) [hereinafter GAO Report], <http://www.gao.gov/new.items/d03397.pdf>.

⁸ JUDGE DAVID L. BAZELON CENTER FOR MENTAL HEALTH LAW, LITIGATION STRATEGIES TO PREVENT CUSTODY RELINQUISHMENT [hereinafter LITIGATION STRATEGIES], <http://www.bazelon.org/issues/children/custody/litigation.htm> (last visited Nov. 1, 2009).

⁹ Goodman, *supra* note 5, at 306.

¹⁰ *In re Dependency of Schermer*, 169 P.3d 452 (Wash. 2007).

¹¹ *See id.*

¹² *Id.* at 454.

¹³ *Id.* at 455.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

residential treatment facility located out of state, at their own cost.¹⁸ In January 2005, the Schermers contacted the Washington Department of Social and Health Services (DSHS) for assistance when they realized that their financial resources were becoming quickly exhausted and they would no longer be able to keep Henry at the residential treatment facility.¹⁹ When their request for help with funding was denied, the Schermers filed a dependency petition with the state.²⁰ In September 2005, an evidentiary hearing was held.²¹ At the hearing, Henry's father Stephen testified that he was two months behind on the bills to the treatment facility and that Henry's discharge was imminent.²² He further testified that the family was "on the verge of bankruptcy," and had spent \$130,000 out-of-pocket to care for Henry since his psychiatric problems first arose.²³ They paid these expenses, in part, by taking out home equity loans for the maximum amount allowable and borrowing \$21,000 from a relative.²⁴ Stephen testified that he was "unwilling to sell the family home because it did not make sense to him, given that at the end of six months Henry would still need intensive treatment and the family would be left without a home."²⁵

The trial court found that Henry failed to qualify for dependency status because "there are resources in the family that could keep Henry where he is for another six months . . ."²⁶ The Washington Supreme Court disagreed, and went out of its way to address the underlying policy issues at hand:

The State points out that relinquishing parental custody in order to obtain mental health services for children is a problem that has preoccupied government officials and family advocates nationwide and is the focus of much critical commentary. A recent general accounting office (GAO) survey found that at least 12,700 children in 19 states were placed in foster care solely to obtain mental health services (citation omitted). There appears to be an emerging national consensus that *forcing* parents "to trade custody for care" is bad public policy (citation omitted). Foster care systems are often ill-equipped to meet the mental health needs of children and may result in greater harm than good. Thus, efforts are underway at the national level to provide block grants to states to provide greater access to mental health services for minors outside of the foster care system (citation omitted). There is no serious question, however, that a parent's inability to adequately care for a child due to the child's severe mental illness is an appropriate ground for a dependency

¹⁸ *Id.*

¹⁹ *Id.* at 456.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 457.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 465.

²⁶ *Id.* at 457.

finding. *The question is whether adequate alternatives to dependency should be made available to families* (citation omitted).²⁷

The court went on to allow further hearings on the dependency issue, but its comment on the policy implications resonate with what child advocates have been saying for years: this is a critical problem that must be addressed.

II. LEGAL REMEDIES

The case that most directly addresses the legal aspects of custody relinquishment is *Joyner v. Dumpson*,²⁸ quoted at the beginning of this note. This 1983 case involved a group of 5,000 children in need of out-of-home mental health services, whose parents could not afford such services.²⁹ The parents brought a class action lawsuit against the state of New York in U.S. District Court, arguing that a New York law requiring them to relinquish custody to obtain mental health services violated section 504 of the Rehabilitation Act of 1973, as well as their due process rights to family integrity and privacy as protected by the Fourteenth Amendment of the U.S. Constitution.³⁰ The Second Circuit disagreed on both counts. First, the court was unconvinced that the custody transfer agreement discriminated against handicapped children solely on the basis of their handicaps, and therefore found no 504 violation.³¹ Second, the court reasoned that the parents had a *choice*—either relinquish custody or refuse services altogether—and therefore there was no facial violation of the Fourteenth Amendment.³²

Joyner supports the notion that cases challenging custody relinquishment policies on constitutional grounds have generally been unsuccessful. The Bazelon Center for Mental Health Law notes, “cases filed under constitutional claims and allegations of discrimination based on disability have not been successful. However, few cases have tested these theories, and more favorable outcomes may be possible in different courts and with very different facts.”³³ Bazelon further stresses the “need for an entitlement to mental health services for children who do not meet current Medicaid standards and who need services that extend beyond the school day.”³⁴ Given the legal barriers, it makes sense to take action outside of the courtroom in addressing the root causes of this problem. The city of Milwaukee has been at the forefront in this regard, as discussed below.

²⁷ *Id.* at 956-57 (emphasis added).

²⁸ *Joyne by Lowry v. Dumpson*, 712 F.2d 770 (2d Cir. 1983).

²⁹ *Id.* at 771.

³⁰ *Id.* at 771-72.

³¹ *Id.* at 776-77.

³² *Id.* at 781-83. The court left open the question of whether the custody relinquishment policy was unconstitutional *as applied*. That remains an open legal question that is beyond the scope of this discussion.

³³ LITIGATION STRATEGIES, *supra* note 8.

³⁴ *Id.*

III. INTEGRATED COMMUNITY TREATMENT: WRAPAROUND MILWAUKEE

One of the most promising models for treating children with mental health issues can be found in Wisconsin. Wraparound Milwaukee was started in 1995 with grant money the city received from the Center for Mental Health Services in Washington, D.C.³⁵ The purpose was to reduce the use of institutional-based care such as residential treatment centers and inpatient psychiatric hospitals by providing services in the child's community and home environment.³⁶ Instead of admitting children to hospitals or treatment centers, this model offers a broad spectrum of services including: in-home therapy, medication management, group home care, respite care, crisis home care, day treatment/alternative schooling, job development/placement, afterschool programming, and independent living support, among others.³⁷

In addition to these services, the program has developed a Mobile Urgent Treatment Team (MUTT).³⁸ The MUTT team is staffed by psychologists, social workers, nurses, case managers, and a consulting physician.³⁹ This team is available on a twenty-four hour basis to assist youth whose behavior threatens their removal from home or school, and also goes to the location and provides on-site assessment.⁴⁰ It decides whether the child's behavior constitutes a danger to him or others, and determines whether he can safely remain in the community or whether short-term placement in an alternative setting is warranted.⁴¹ The team also manages an eight-bed crisis/respite group home, which can serve as a more cost efficient alternative "cooling off" setting.⁴²

A. *Wraparound: Clinical Outcomes*

The results have been promising. Youth who completed the program showed significant improvement in functioning based upon standardized clinical scales.⁴³ In 2008, 352 of the 389 children and youth who completed the program were in a permanent setting, defined as living at home with a parent or relative, being adopted, living under a subsidized guardianship, receiving sustaining care, or

³⁵ Bruce Kamradt, *Wraparound Milwaukee: Aiding Youth With Mental Health Needs*, 7 JUV. JUST. J. 14, 16 (2000).

³⁶ *Id.* at 14-15.

³⁷ *Id.* at 19.

³⁸ Wraparound Milwaukee: Mobile Urgent Treatment Team, <http://www.milwaukeecounty.org/MobileUrgentTreatment10109.htm> (last visited Nov. 1, 2009).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ WRAPAROUND MILWAUKEE, 2008 WRAPAROUND MILWAUKEE YEAR END REPORT 14 (2008) [hereinafter ANNUAL REPORT], <http://www.milwaukeecounty.org/BackgroundandHistory10149.htm>.

living independently.⁴⁴ Of the number who achieved permanency, 74% are living with their parents.⁴⁵

In addition, family satisfaction is high. The program seeks feedback from both youth and their families at the end of each fiscal year, using a one to five rating scale in which one is the lowest and five is the highest. The 2008 results revealed the average satisfaction score for youth completing the survey at 4.24, and adults/family members at 4.07.⁴⁶ Thus, Wraparound has achieved not only positive clinical outcomes, but has done so in a manner that has produced high consumer satisfaction.

B. Wraparound: Cost Efficiency

In addition to clinical success and consumer satisfaction, Wraparound Milwaukee has demonstrated significant cost effectiveness. The program is funded through a creative cost-sharing structure referred to as “blended funding”⁴⁷ which pools funds received by Medicaid, child welfare, and juvenile justice systems, and supplements these with private insurance and Supplemental Security Income payments. These funds are then pooled and decategorized, allowing the program flexibility to use them based on the individual needs of clients and their families.⁴⁸ This model of blended funding is a progressive step forward. Prior to implementation, funding from the child welfare and juvenile justice systems were used entirely to fund more expensive residential treatment and care.⁴⁹ In 2008, Wraparound served a total of 1,236 youth at an average monthly cost of \$3,878 per child. Compare this to an average monthly cost for a group home placement at over \$5,000 per month, residential center placement at nearly \$7,000 per month, and inpatient psychiatric hospitalization at over \$35,000 per month.⁵⁰ Based on this data, the program is achieving fiscal efficiency as well as positive clinical outcomes.

C. Wraparound: Future Opportunities

Wraparound continues to innovate by focusing on proactive strategies focused on early intervention. The program recently unveiled a new project called REACH, aimed specifically at engaging youth in services before they become involved in the court system.⁵¹ This is a dramatic development, as the program historically was limited to serving youth who were either already under a court order, or

⁴⁴ *Id.* at 15.

⁴⁵ *Id.*

⁴⁶ *Id.* at 16.

⁴⁷ Kamradt, *supra* note 35, at 18.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ ANNUAL REPORT, *supra* note 43, at 17.

⁵¹ Wraparound Milwaukee: REACH, <http://www.milwaukeecounty.org/WraparoundMilwaukee7851/REACH.htm> (last visited Dec. 22, 2009).

determined to be in need of child protective services. Referrals can be made by family members, school personnel, health care providers, and others. In 2008, the program served 179 youth in this category.⁵² In addition, Wraparound has entered into a collaborative agreement with local schools through a Safe Schools/Healthy Students grant project.⁵³ This is yet another opportunity to intervene early with at-risk youth in providing preventive mental health services before they become involved in the juvenile justice system.

Wraparound is also embarking on a project aimed at promoting better information sharing between itself and the other two key agencies involved—child welfare and juvenile justice. Recognizing the need for accurate information sharing, the Wraparound Milwaukee program custom designed a program called *Synthesis*.⁵⁴ Currently, the program is integrating its database with that of the state juvenile court system so that case planning data can be shared and clinical outcomes can be tracked across agencies.⁵⁵

In September of 2009, Wraparound Milwaukee was awarded the Annie E. Casey Innovations Award in Children and Family System Reform by the Harvard School of Government.⁵⁶ Stephen Goldsmith, director of the Innovations in American Government Program at Harvard stated:

Wraparound Milwaukee's care model breaks through rigid program silos and delivers cost effective and higher quality health care that involves families from day one. . . . The program champions a unique approach to care where one size doesn't fit all. In honoring Wraparound, we hope other states will learn from the program's innovation and adopt similar practices to ensure improved care of at risk youth.⁵⁷

Perhaps most importantly, Wraparound Milwaukee will receive additional grant funding to share its success with other programs.⁵⁸ This presents an opportunity for policymakers in the state of Utah to build a successful integrative mental health program for youth in a cost efficient way.

⁵² *Id.* at 8.

⁵³ *Id.* at 3.

⁵⁴ *Id.* at 19.

⁵⁵ *Id.*

⁵⁶ *Wraparound Milwaukee Wins Innovations in American Government Award*, REUTERS, Sept. 15, 2009, <http://www.reuters.com/article/pressRelease/idUS96980+15-Sep-2009+BW20090915>.

⁵⁷ *Id.*

⁵⁸ *Id.*

IV. MANIFESTATIONS OF THE CUSTODY RELINQUISHMENT PROBLEM IN UTAH

For years the Disability Law Center (DLC)⁵⁹ has received reports from families who have experienced the custody relinquishment problem firsthand. In 2007, the DLC published a report discussing the nature of this problem within the state of Utah.⁶⁰ This report serves as the first step in defining the nature of the problem in the state, and in generating a discussion on scope and potential remedies. The DLC interviewed representatives from the following entities:⁶¹

- Utah State Medicaid Agency
- Allies with Families⁶²
- Third District Juvenile Mental Health Court Probation and Parole
- Utah Division of Child and Family Services (DCFS)
- Utah Division of Juvenile Justice Services (DJJS)
- ABLE Clinic⁶³
- An Assistant Attorney General who works with DCFS
- A State District Juvenile Court Judge

In addition, the DLC interviewed six parents who had been faced with custody relinquishment in order to gain mental health services for their children. Their personal experiences are highlighted throughout the report. The survey revealed that in Utah, there are currently two main “default” providers of mental health services for children in crisis: DCFS and DJJS.⁶⁴ Because there is no standard infrastructure, services offered by these two agencies are often fragmented and incomplete, leading to wasteful spending and less than ideal outcomes for the children they are attempting to help. Some of the key findings from the report are summarized below.

⁵⁹ The Disability Law Center is the federally designated protection and advocacy agency for the state of Utah. Its mission is to enforce and strengthen laws that protect the opportunities, choices, and legal rights of people with disabilities in Utah.

⁶⁰ DISABILITY LAW CENTER, *BETWEEN A ROCK AND A HARD PLACE: AN INVESTIGATION OF CUSTODY RELINQUISHMENT AS A METHOD FOR ACCESSING ESSENTIAL MENTAL HEALTH SERVICES FOR CHILDREN IN UTAH* (2007) [hereinafter *DLC REPORT*], <http://www.disabilitylawcenter.org/publications/Parental%20Rights%20Report%20Word%20FINAL.pdf>.

⁶¹ *Id.* at 7.

⁶² Allies with Families is a local non-profit organization devoted to serving individuals with mental illness. *See* Allies with Families Homepage, <http://www.allieswithfamilies.org/> (last visited Nov. 25, 2009).

⁶³ The ABLE clinic is part of the Bureau of Children with Special Health Care Needs, a division of the Utah Department of Health. *See* ABLE Developmental Clinic, Inc. Homepage, <http://www.ableclinic.ca/> (last visited Nov. 25, 2009).

⁶⁴ *DLC REPORT*, *supra* note 60, at 11.

A. DCFS and DJJS

DCFS has a category called “no fault service dependency placements.”⁶⁵ Director Duane Betournay estimates that in 2005, 470 children in DCFS custody (roughly 25% of all children in DCFS custody) were there based on service dependency.⁶⁶ Almost half of these children were younger than the age of ten years old.⁶⁷ Although the agency has not tracked the number of these children whose placements were based on mental health needs, “Betournay believes that the number is significant.”⁶⁸

DJJS is another avenue for getting mental health treatment for children. When mental health issues of juveniles are left untreated, they often end up in juvenile court where judges can order treatment for juvenile offenders. The court will often send first time juvenile offenders to an Observation and Assessment unit run by DJJS.⁶⁹ A child’s condition may continue to deteriorate in this foreign setting, often resulting in additional charges, and a possible transfer to a residential treatment setting. These are often out-of-home placements that last from six months to a year, at which point the youth is discharged back home.⁷⁰ If additional community-based mental health services are not provided, the youth are prone to reoffending.⁷¹ As a result, probation officers have the option of petitioning the juvenile court on behalf of parents to voluntarily take custody, starting the cycle over again.⁷² Thus, the challenge for Utah and other states is to develop strategies for breaking this destructive pattern.

B. Next Steps

The DLC report offered several “next step” recommendations.⁷³ Central to these was the idea that state agencies and mental health providers must work together to integrate services using a model based on early identification, preventive treatment, and community-based care.⁷⁴ The remainder of this note will describe an innovative project currently underway in Utah’s Third District Juvenile Court, and discuss how that model can be developed and expanded by replicating strategies used in Milwaukee.

⁶⁵ *Id.* at 12.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 13.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ DLC REPORT, *supra* note 60, at 15-16.

⁷⁴ *Id.*

C. Coordination of Care Court

The Third District Juvenile Court in Salt Lake County has taken the lead in moving from a punitive model of juvenile justice to one that focuses on prevention and rehabilitation. The Coordination of Care Court (C3) was introduced in 2006.⁷⁵ This mental health court is designed specifically for juvenile offenders who also have a diagnosable mental illness.⁷⁶ It is collaborative partnership between Valley Mental Health, the Division of Child and Family Services, Division of Juvenile Justice Services, Salt Lake County District Attorney's Office, Salt Lake County Sheriff's Office, Salt Lake County Division of Substance Abuse Services, Pappas and Associates,⁷⁷ Jordan School District, and the National Alliance for the Mentally Ill-Utah Chapter (NAMI).⁷⁸ C3's mission is "providing youth offenders with supervision and a comprehensive integrated treatment plan that includes a coordination of community-based treatment services in full partnership with families and support networks."⁷⁹ The program admits youth aged twelve to seventeen who are under its jurisdiction per an adjudicated delinquency petition or DCFS or DJJS custody. Youth who participate in the program must be diagnosed with a serious emotional disturbance (SED) that has resulted in significant impairment in the family, school, or community.⁸⁰ Participation is voluntary. The system provides a tiered framework for intervention that balances positive behavior supports while still holding youth accountable for their actions. Assigned caseworkers collaborate with youth and their families in setting goals across four domain areas: 1) compliance with court orders; 2) compliance with treatment regime (including medication); 3) evidence of school attendance/behavioral adjustment; and 4) compliance with home rules and parental expectations.⁸¹

Youth must progress through three levels in order to complete the program. Positive rewards are offered for success, while at the same time there are sanctions for noncompliance.⁸² In order to graduate, participants must meet the following criteria: 1) no new charges; 2) satisfaction of all court ordered obligations; 3) completion of the goals for each phase; and 4) demonstration of stabilized behavior—therapeutically, academically, and domestically. Those who meet these requirements are eligible to have their court supervision terminated.⁸³

⁷⁵ UTAH THIRD DISTRICT COURT, COORDINATION OF CARE COURT: FINDING CREATIVE SOLUTIONS THROUGH CREATIVE PARTNERSHIPS (2007) (PowerPoint presentation transcript on file with author).

⁷⁶ *Id.*

⁷⁷ Pappas & Associates is a Salt Lake City, Utah defense firm which provides services to youth in the juvenile justice system.

⁷⁸ UTAH THIRD DISTRICT COURT, *supra* note 75.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

Although the number of youth served is small at this point, initial results have been promising:

- 64% of the participants had no additional criminal charges while in the program, while the remaining youth that did have charges were less severe than those upon program entry;
- 10% increase in school attendance and grade point average;
- One client graduated from high school, and one obtained a graduate equivalency diploma (GED).⁸⁴

V. RECOMMENDATIONS

The Third District's Coordination of Care program is very promising. Programs such as this can be strengthened even further by integrating strategies employed by the Milwaukee program. Below are some initial recommendations:

A. *Purchase the Synthesis Database from Wraparound Milwaukee*

The need for data sharing between mental health agencies, DCFS, and DJJS is critical, as described in the DLC's report.⁸⁵ Wraparound has pioneered a data sharing system, and has made it available to other municipalities. Utah should take advantage of this program.

B. *Replicate the Blended Funding Model*

Pooling resources across agencies can result in increased access to community care, and create added flexibility for programming that is proactive, community-based, and individually tailored to the needs of youth and their families.

C. *Replicate the REACH Model*

State policymakers should ally themselves with leaders from the Milwaukee program, and seek to replicate the REACH model here in Utah. By intervening *prior* to engagement with law enforcement, the State can both save money and prevent the collateral damage that often occurs when youth are placed in the juvenile justice system.

By using strategies from Wraparound Milwaukee, Utah can build upon the promising foundation being piloted by the Third District Court, and expand this model to other areas of the state. This can result in positive gains on two fronts. First, it can decrease the number of youth who become involved in the criminal justice system. Second, it will begin to eliminate the need for custody relinquishment by offering preventive care before families reach a crisis.

⁸⁴ *Id.*

⁸⁵ DLC REPORT, *supra* note 60, at 15.

CONCLUSION

Parents of children with serious mental health issues are being placed in untenable situations. As *Schermer* illustrates, families are forced to the brink of poverty in seeking the care their children need. Not only do parents risk impoverishment, but they are often forced to give up custody of their children to the state. This destabilizes families, and increases the likelihood that children with mental health needs will spiral further out of control, resulting in increased cost to society in the long term. This problem transcends the formal legal realm, calling for a solution that requires strong collaboration between the legal profession, advocates, service providers, and state and federal agencies. Salt Lake County is taking steps in the right direction with the Coordination of Care Court. Leaders should seek to build and expand upon this model throughout the state of Utah by collaborating with staff from the Wraparound Milwaukee program. As a state that prides itself on its commitment to family values, Utah has the opportunity to transform rhetoric into action and become a leader in creating better support systems for youth with mental health needs.