

## **SHORT-TERM PLAN TO ADDRESS OVERNIGHT STAYS**

### **Executive Summary:**

The Parties<sup>1</sup> have discussed placement issues concerning the increase in overnight stays (*See* Exhibit A, Co-Monitors’ Nov. 29, 2021 Letter of Concern; *see also* Monitoring Report 9 (ECF No. 224-1 at 66)) and have agreed to the following short-term action steps. The Parties continue to reserve all rights concerning obligations and/or defenses under the Final Settlement Agreement (“FSA”). The Parties request that this Plan be approved and agree for it to be entered as an Order of the Court.

### **Key Terms and Phrases:**

- ***Overnight Stay***- a minimum four-hour period in a DSS office, hotel, motel, or other commercial non-foster care establishment between the hours of 10:00 pm and 6:00am.
- ***Target Counties*** –These counties are defined as counties that experienced more than 5 nights of overnight stays in a DSS office and/or more than 5 unique children/youth experiencing overnight stays in a DSS office from the period of time October 2021 through February 2022.<sup>2</sup>
  - 5 or more overnight stay in DSS offices target counties are: Spartanburg, Anderson, Richland, Greenville, Upstate Adoptions, Horry, Lexington, Berkeley, and Kershaw.
  - 5 or more children/youth experiencing overnight stays in DSS offices target counties are: Richland, Spartanburg, Anderson, Greenville, and Horry
- ***Children and Youth with Exceptional Needs***- Children and youth who are having difficulties as a result of adverse child experiences (ACES) or other traumatic experiences either prior to or after entering custody. The child/youth may also have high medical needs that require nursing back-up to administer medications and/or special needs intensity to include toileting and 24-hour 1:1 supervision.

**Plan Goal:** Implement immediate action steps to mitigate, within the next 6 months, overnight stays of children and youth in a DSS office, hotel, motel, or other commercial non-foster care establishment.<sup>3</sup>

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<sup>1</sup> For purposes of this document, the “Parties” refers to DSS and Plaintiffs.

<sup>2</sup> These target counties were identified using data available to Plaintiffs as of February 28, 2022. Upon verification of the data by DSS, the Parties agree to modify the list of target counties as needed to include all counties that meet the parameters for “target counties” as of February 28, 2022.

<sup>3</sup> DSS uses “cottages” wherein, per the Department, DSS contracts with a group care agency for unused residential cottages or other residential spaces, and separately contracts with a healthcare agency to supervise children without a placement. Health care agency staff are CNAs with at least two years of experience. Their enumerated duties include but are not limited to engaging with and supporting the child, cooking/preparing meals, cleaning, medication administration, and daily documentation. The Parties disagree as to whether these cottages fall under FSA IV.D.3. (Overnight Stay) and/or FSA II.H. (Emergency or Temporary Placement), and reserve all rights under the FSA.

**Action Plan:**

**1. Increase placement stability, children/youth placed with kin, and timely permanency by strengthening the Placement of Foster Children in Kinship/Non-Kinship Foster Homes policy and related protocols.**

<b>Action Steps</b>	<b>Target Date</b>
<p>A. Finalize plans to require Placement Child and Family Team Meetings (CFTM), in target counties, so they are no longer optional, “special call” meetings. Provide placement CFTM practice guidelines that address:</p> <ul style="list-style-type: none"> <li>• Events that trigger a meeting including possible placement disruption and children on runaway</li> <li>• Goals of meeting</li> <li>• Team members who should be invited and attend</li> <li>• Roles/responsibility of team members for preparation of participants and facilitation of meeting</li> <li>• Frequency of meeting</li> <li>• After meeting follow up/expectations and responsibilities</li> <li>• Tracking and monitoring of meeting goals and outcomes for children</li> </ul>	<p>Practice guidelines finalized by March 15, 2022</p> <p>Disseminate and train staff in target counties by March 25, 2022</p> <p>Full implementation of required Placement CFTMs in target counties by March 31, 2022.</p> <p>Implement training in all counties who have experienced an overnight stay in a DSS office (18 additional counties) by May 31, 2022.</p> <p>If any other county has more than two overnight stays in a DSS office, per FSA definition, within a 60-day period, DSS will provide targeted training to applicable staff in that county within one month of the second overnight stay in a DSS office.</p>
<p>B. Update Placement of Foster Children in Kinship/Non-Kinship Foster Homes policy to outline procedures for overnight stays in DSS office, hotel, motel, or other commercial non-foster care establishment. This will include addressing:</p> <ul style="list-style-type: none"> <li>• supervision/oversight when there is one or more child/youth in the office,</li> <li>• office sleeping arrangements/location,</li> <li>• staff to child ratio,</li> </ul>	<p>Update policy by February 28, 2022</p> <p>Disseminate policy to all counties by March 15, 2022</p> <p>Train all staff in target counties by March 25, 2022</p>

<ul style="list-style-type: none"> <li>• continuation of and arrangements to attend schooling,</li> <li>• provisions to meet therapeutic needs,</li> <li>• crisis management,</li> <li>• meeting nutritional needs,</li> <li>• managing hygiene,</li> <li>• and if/when needed, guidelines for administering and monitoring medication administration.</li> </ul> <p><b>NOTE:</b> Those staff in target counties will experience training on updated policies and pilot protocols as a cohort to help staff understand how these efforts are connected and clarify practice expectations.</p>	<p>Implementation date in target counties March 31, 2022</p> <p>Provide training to staff in all remaining counties by April 30, 2022.</p>
<p>C. Update any policy establishing timeframes and circumstances under which regional director approval is needed for placement decisions; clarifying and adding the need for regional director approval for any placements with non-kin to be integrated with the required placement CFTM process.</p> <p><b>NOTE:</b> Those staff in target counties will experience training on updated policies and pilot protocols as a cohort to help staff understand how these efforts are connected and clarify practice expectations.</p>	<p>Identify impacted policies by February 28, 2022</p> <p>Update and disseminate policies by March 15, 2022.</p> <p>Train all staff in target counties by March 31, 2022.</p> <p>Implementation date in target counties April 15, 2022.</p> <p>Training to all remaining counties on a regional basis by June 30, 2022.</p>
<p>D. Streamline and revise the placement with kin exception form to address:</p> <ul style="list-style-type: none"> <li>• monitoring search efforts,</li> <li>• quality of search efforts,</li> <li>• frequency of search,</li> </ul> <p><b>NOTE:</b> Those staff in target counties will experience training on the revised form as a cohort to help staff understand how these efforts are connected and clarify practice expectations.</p>	<p>Form revision by March 31, 2022</p> <p>Disseminate and train all staff in target counties by April 15, 2022</p> <p>Implementation date in target counties April 30, 2022.</p> <p>Disseminate revised form and train all remaining counties on a regional basis by June 30, 2022.</p>

<p>E. Improve timely placement decisions and matching appropriate services to child/youth’s needs by establishing a temporary protocol for target counties that augments the current universal applications (UAs) review policy, requiring regional Therapeutic Services Coordinators to complete final review of Universal Applications (UA) for all children/youth in target counties prior to submitting the placement referral packet.</p>	<p>Draft and finalize temporary protocol for target counties by March 16, 2022.</p> <p>Disseminate and train staff in target counties by March 25, 2022.</p> <p>Implementation date in target counties March 31, 2022; will initially last 3 months then review/assess and adjust as necessary.</p>
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**2. Increase use of and support for kinship caregivers by conducting ongoing assessment of kin willingness to care for their loved ones, and standardizing family finding practice.**

<b>Action Steps</b>	<b>Target Date</b>
<p>A. Assess capacity of Regional Kinship Coordinators to temporarily assist with family finding, in target counties.</p>	<p>Assess capacity and identify number of Regional Kinship Coordinators to assist in target counties by February 28, 2022.</p>
<p>B. Develop a protocol that outlines the role and family finding practice expectations, if it is determined that Regional Kinship Care Coordinators have capacity.</p>	<p>Protocol developed and finalized by March 15, 2022</p>
<p>C. Based on determined capacity will train Regional Kinship Care Coordinators and begin implementation in target counties.</p> <p>Note: If DSS determines that Regional Kinship Coordinators do not have capacity to assist with family finding in target counties, it will identify alternative staffing and resources.</p>	<p>March 31, 2022</p>
<p>D. Establish a workgroup of representatives from placement, well-being, regional/county leadership, and frontline staff, to begin in targeted counties, to refine the existing map to include the current process and new process, as needed, for locating placement for youth who are waiting in county offices and for responding to/managing overnight office stays when placement cannot be secured.</p>	<p>Updated map completed by March 31, 2022</p>

<p>This updated mapping will also include roles of staff at each point in the process.</p>	
<p>E. Workgroup from 3c will review mapping and develop an implementation plan for target counties that contemplates communicating, educating, and preparing county/regional staff for use of the updated guidance.</p>	<p>Develop implementation plan for target counties by April 15, 2022</p> <p>Implementation of plan in target counties by April 30, 2022</p> <p>Implementation Statewide by September 1, 2022</p>
<p>F. Kinship Care Coordinators will facilitate refresher trainings in each target county for CPS Investigators and Foster Care case managers, located in target counties. This training will reinforce the importance of speaking with parents and caregivers about their support system and utilizing the CFTM process to identify possible kinship caregivers if the children/youth are removed during the investigation and engage identified potential kinship caregivers to assess their ability and interest in providing caregiving support for their loved ones.</p>	<p>All CPS Investigators and Foster Care Case managers in target counties will have experienced this refresher training by March 31, 2022.</p> <p>Training for CPS Investigators and Foster Care case managers in remaining counties will be delivered on a regional basis by September 1, 2022.</p>

**3. Reduce unnecessary placement moves and placement of children/youth in higher levels of care by improving assessment of needs/strengths and matching with appropriate services and care settings.<sup>4</sup>**

<b>Action Steps</b>	<b>Target Date</b>
<p>A. Assess weekly placement needs staffings and bi-weekly placement updates to develop a more streamlined, effective, and timely manner to:</p> <ul style="list-style-type: none"> <li>• clinically review supervision and safety of children/youth experiencing overnight stays in a DSS office, hotel, motel, or other commercial non-foster care establishment</li> <li>• discuss progress in securing appropriate treatment,</li> <li>• address ongoing/new placement barriers.</li> </ul>	<p>Assess existing processes and make any identified updates by March 31, 2022</p>

<sup>4</sup> The existing CFTM process will continue to be the setting within which the results of the CANS assessment, outcomes of clinical staffing’s, and other treatment related meetings will be discussed with members of the child and family team; with the goal being engagement of all parties to develop and/or update a collaborative plan of care

<p>B. To increase placement stability, develop a protocol and implementation timeline for time-limited clinical supervision for children/youth with exceptional needs that experienced an overnight stay in a DSS office, hotel, motel, or other commercial non-foster care establishment in targeted counties. Clinical supervision will be provided by a designated member of the Regional Well Being team.</p>	<p>Protocol developed and disseminated to relevant staff in target counties by March 31, 2022</p> <p>Implementation in target counties by April 15, 2022.</p>
<p>C. Determine potential financial impact of increasing Praed coaching and training support in target counties. Potential funding sources for utilization may include Casey Family Funds, or other one-time funding until a fiscal year 2023-24 budget request can be made and funded.</p>	<p>March 15, 2022</p>
<p>D. Work with Praed Foundation to create and implement virtual training addressing the identification of underlying needs as well as functional strengths, to be deployed in target counties.</p>	<p>May 31, 2022</p>
<p>E. Work with Praed Foundation to enhance and expand existing CANS coaching clinics, beginning in target counties, to address utilizing CANS to match needs with services, determine service intensity, integrating use of functional strengths in treatment, and appropriate care setting. Coaching clinics will support wellbeing teams, placement team, supervisors, and provider partners.</p>	<p>Implementation of expanded CANS coaching clinics in target counties by May 31, 2022</p> <p>Implementation of expanded CANS coaching clinics in remaining counties by September 1, 2022.</p>

**5. Establish the capacity to identify, track, and report, with validity and reliability, and in automated form, all children in the class experiencing overnight stays in a DSS office, hotel, motel, or other commercial non-foster care establishment.**

Action Steps	Target Date
<p>A. Formulate regular reports on overnight stays in a DSS office, hotel, motel, or other commercial non-foster care establishment to begin answering some of the following questions:</p> <ul style="list-style-type: none"> <li>• Demographics: Age, race, gender, gender identity, and sexual orientation</li> <li>• Counties the children/youth are coming from</li> </ul>	<p>April 30, 2022</p>

<ul style="list-style-type: none"> <li>• New/initial placements or movement in care</li> <li>• Number of unique children who are experiencing overnight stays in DSS offices, hotels, motels, or other commercial non-foster care establishments.</li> <li>• Number of days children/youth are experiencing overnight stays in a DSS office, hotel, motel, or other commercial non-foster care establishment</li> <li>• Where the children/youth are going after the overnight stay in a DSS office, hotel, motel, or other commercial non-foster care establishment</li> <li>• Placement needs of the child/youth</li> <li>• Prior placement changes in the 12 months precipitating the overnight stay in a DSS office, hotel, motel, or other commercial non-foster care establishment</li> </ul>	
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**6. Create, strengthen, stabilize, and restore placements for foster children by working with provider partners to develop needed services and supports.**

<b>Action Steps</b>	<b>Target Date</b>
<p>A. Research other states’ models to provide additional reimbursement to child placing agencies (CPA) for recruiting, licensing, and placing children and youth with higher level needs in foster family settings and determine potential financial impact for a higher level of payment. This funding could come from current bed day savings, until a fiscal year 2023-24 budget request is made and funded.</p>	<p>Develop list of a minimum of three models to present to provider partners by March 31, 2022.</p>
<p>B. Work with provider partners to select and customize a model for South Carolina based on findings.</p>	<p>June 30, 2022</p>
<p>C. Finalize financial impact of chosen plan, including resources needed, and identify available funding source. If current funding is available, develop implementation plan that contemplates messaging new reimbursement structure, updating contracts, and effective date.</p> <p>If DSS determines that funding is not currently available, the Parties reserve their rights under FSA I.(I).</p>	<p>Based on chosen model, training specifications, provider involvement, and identified funding mechanism, implementation plan for target counties will be developed and finalized by June 30, 2022</p>
<p>D. Determine potential financial impact of children and youth with exceptional needs pilot program. The Department will also explore the cost and financial feasibility of considering payment for securing a minimum of 5 beds for high-needs youth, even while a provider doesn’t actively have a placement in that bed. Potential initial funding</p>	<p>April 30, 2022</p>



sources could be one-time IV-B Part II stimulus funds or DHSS one-time funding transfer, until a fiscal year 2023-24 budget request is made and funded.	
E. Determine the number of additional beds needed, and the resources needed to meet that need.	June 30, 2022
F. If funding is available, secure a minimum of 5 beds for high-needs youth, even while a provider doesn't actively have a placement in that bed.  If DSS determines that funding is not currently available, the Parties reserve their rights under FSA I.(I).	June 30, 2022
G. Children and youth with exceptional needs pilot will test a more comprehensive treatment approach including: <ul style="list-style-type: none"> <li>• developing and supporting no less than 10, but up to 20 specialized foster homes (generally across the state and specifically, in target counties);</li> <li>• and expanding their service array to 24/7 crisis management, intensive counseling, short-term respite, full mental health evaluations, etc.</li> </ul>	Developed and implemented in target counties by June 30, 2022
H. Work to recruit the 5 CPAs currently under Change Order 5 to expand family-based placement options in target counties that may help prevent placement disruption, need for emergency placements, and overnight office stays.	June 30, 2022
I. Establish a new change order with those CPAs that agree to the expansion.	June 30, 2022
J. Determine potential financial impact of increasing per diem rate for in-state PRTFs.  Note: An increase in overall expenditures is not anticipated since the rate is expected to be increased consistent with the rate currently paid to out-of-state PRTF's.	March 31, 2022
K. Increase per diem rate for PRTFs to purchase additional services on a child by child basis; this rate will supplement DHHS' recent rate increase.	March 31, 2022
L. Establish a process to oversee treatment and implementation of the in-state PRTF contract, reporting, and discharge planning requirements outlined in new contract.	March 31, 2022
M. Work with private provider to pilot a program in target counties that: <ul style="list-style-type: none"> <li>• Incorporates Full-Time Youth Support Partners, assigned 10-12 youth with exceptional needs; and</li> </ul>	Execute an agreement with private provider partner in target counties by April 30, 2022



<ul style="list-style-type: none"> <li>• Adds a community-based therapist for every 20-25 youth</li> <li>• These two professionals will work alongside the case manager, helping with placement stability, pro-active crisis intervention and general management of the youth’s needs.</li> </ul>	
<p>N. Make flexible funds available to support removing barriers to licensure to providers/foster families in target counties that elect to reinstate foster licenses/placements.</p> <p>Note: \$86K of State General Funds has been requested in the FY23 budget in Priority #1 for this item. If funds are needed before the FY23 budget is known/appropriated, the agency will make available this specified amount of funding (\$86K) for use from IV-E admin and other available State General Funds. Analyze and determine funds amount needed if beyond the identified \$86K.</p>	<p>May 31, 2022</p>
<p>O. DSS and CPAs will work to re-engage all licensed foster parents that have not accepted placements in more than 3 months and are located in target counties.</p>	<p>June 30, 2022</p>
<p>P. Within target counties, DSS and CPAs will collaborate to determine barriers to placements and identify supports/services that could be offered to support foster parents in successfully caring for a child/youth.</p> <p>The Department will commit \$100,000 in one-time IV-B Part II stimulus funding to provide supports/services to stabilize placement of children/youth in foster homes in target counties.</p> <p>If additional funds are needed the Department will determine the amount and will include the request in the agency’s FY24 budget request.</p>	<p>Make available services and supports, and communicate availability, in target counties by May 15, 2022</p>
<p>Q. Determine potential financial impact of contracting with a technical assistance provider to support foster parent recruitment in target counties. Potential funding sources could be IV-E admin, and adoption savings.</p>	<p>Determine financial impact by March 31, 2022</p>
<p>R. Work with Technical Assistance provider and Provider Partners to build out and implement foster parent recruitment plans in target counties.</p>	<p>Develop and implement foster parent recruitment plans in target counties by April 30, 2022</p>
<p>S. Work with foster parent training provider(s) in the target counties to enhance their training around disobedience and defiance to include practical and proven tips for</p>	<p>Implement training in target counties by May 30, 2022</p>

<p>successfully managing this behavior. In addition, offer training to support Therapeutic Crisis Intervention.</p>	
<p>T. Work with Building Bridges Initiative (BBI) to disseminate Program Self-Assessment to all provider partners that assesses current capacity and programming needs.</p> <p>Upon completion of the self-assessment, 2 cohorts of providers (5 in one and 6 in the other cohort) will receive technical assistance from BBI around preparing their agencies for QRTP implementation.</p>	<p>August 31, 2022</p>

# **EXHIBIT A**



November 29, 2021  
 Director Michael Leach  
 South Carolina Department of Social Services

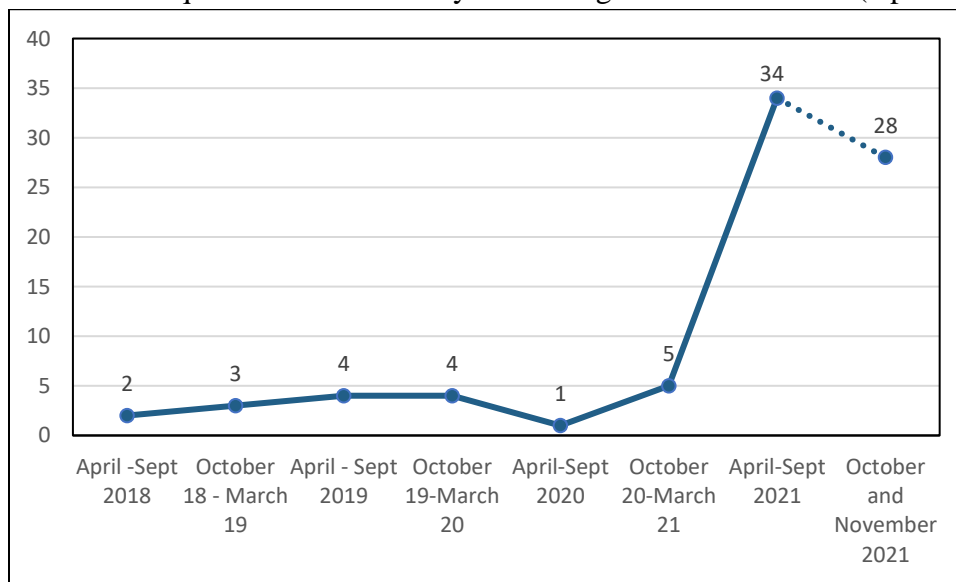
Via electronic mail

**Re: Co-Monitor Concerns re: Increase in Overnight Stays**

Dear Director Leach,

We are writing to express our concern about the severe increase in the number of instances in which children in DSS custody are staying overnight at DSS offices due to a lack of appropriate placement. Over the summer, we discussed that overnight stays have been increasing since April 2021 (see Figure 1). This pattern has continued and escalated; by the end of September 2021, there were 68 overnight stays comprising 34 unique children since April. However, in the past two months alone, we have been receiving almost daily notifications, with 54 overnight stays thus far for 28 unique children from October 1 to November 22, 2021 (as shown by the dotted line in the figure). In less than two months, the number of overnight stays is 80 percent of the total overnight stays in the previous six months. If this rate continues undeterred, we might expect over 150 overnight stays for 80 children by the end of the current monitoring period, in March 2022.

Figure 1: Number of Unique Children who Stayed Overnight in a DSS Office (April 2018-Present)



Source: Co-Monitor Analysis from DSS Overnight Stay Notifications Data

**Co-Monitor Concerns re: Increase in Overnight Stays**

November 29, 2021

Page 2

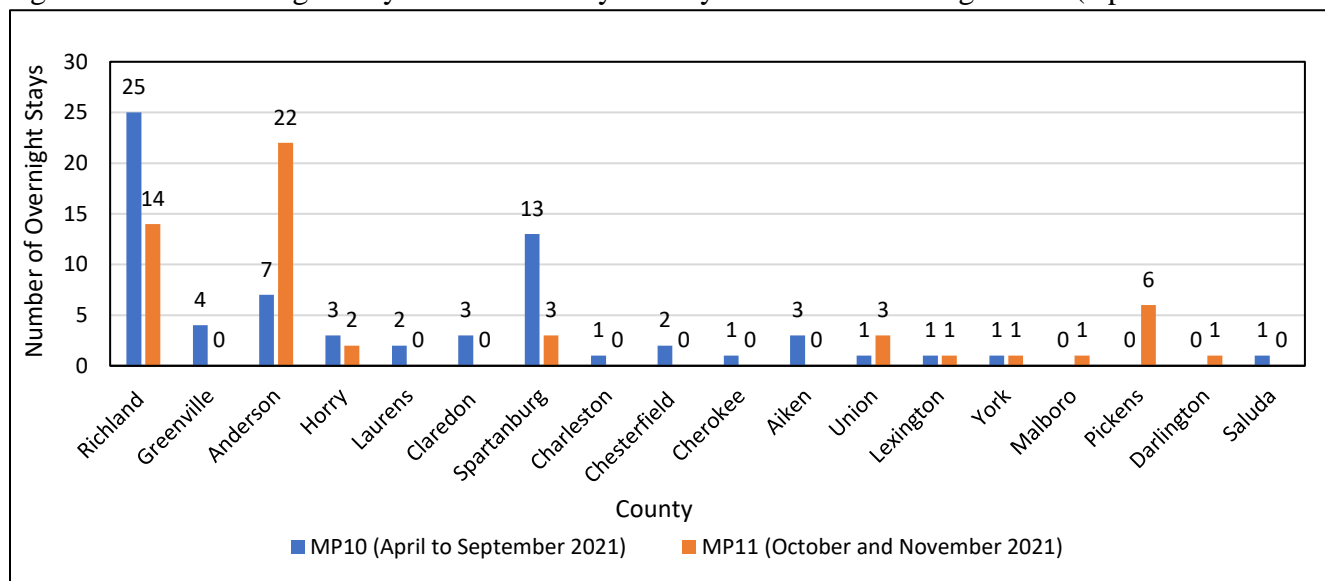
The recent notifications, particularly in the past three weeks alone, have skewed to children of younger ages (there has been a case with a four year-old, an eight year-old, a nine year-old, and a 10 year-old; the latter two have stayed overnight in a DSS office multiple times). There have also been five cases since June 2021 in which the child is LGBTQ or non-binary, and this was referenced in at least one case reviewed as a complicating factor in locating placement (described in more detail below). For those 26 children for whom race data were available, 15 (54%) who stayed overnight in October and November 2021 were Black or African American (including two multiracial children), compared to 11 White children. The racial breakdown of children in foster care is approximately 32 percent Black or African American and 53 percent White, suggesting a racial disproportionality inherent in this placement crisis.

Additionally, more than half of the children who stayed overnight in a DSS office in the last two months had been in foster care prior to the time of their overnight stay; 10 of the 28 children who stayed overnight in the DSS office experienced the overnight stay on the same day as their entry into foster care, and thus efforts to find placement commenced on that date.

**County Analysis**

In October and November 2021, there have been increases in Anderson (22 combined overnights for three unique children), Richland (14 combined overnights for 10 unique children), and Pickens (6 combined overnights for two unique children) counties, as shown in Figure 2. Again, it is important to note that the blue bars in the graph below represent six months (from April to September 2021), whereas the orange bars represent less than two months (October 1 through November 22, 2021).

Figure 2: Total Overnight Stay Notifications by County in Each Monitoring Period (April 2021-Present)



Source: Co-Monitor Analysis from DSS Overnight Stay Notifications Data

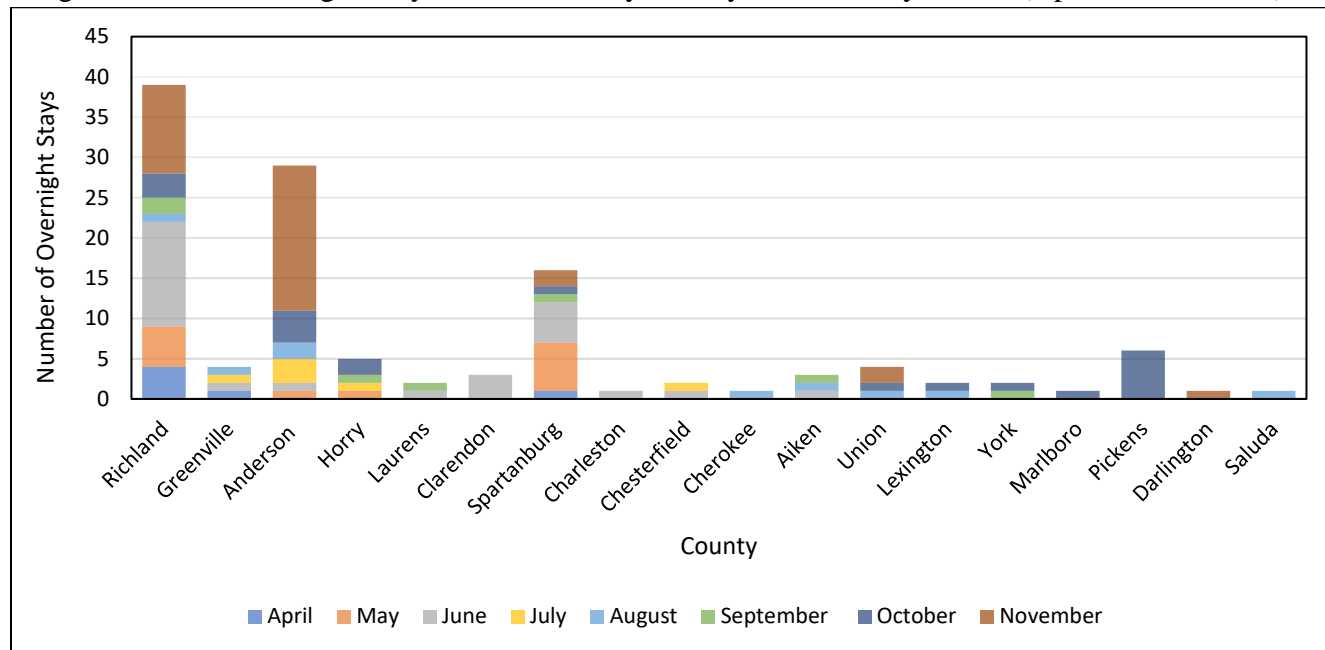
**Co-Monitor Concerns re: Increase in Overnight Stays**

November 29, 2021

Page 3

Since overnight stays began increasing in April 2021, in reviewing the last eight months, the highest number of overnight stays has been in Richland County, followed by Anderson and Spartanburg, as can be seen in Figure 3.

Figure 3: Total Overnight Stay Notifications by County, Stratified by Month (April 2021-Present)



Source: Co-Monitor Analysis from DSS Overnight Stay Notifications Data

**Additional Themes**

Through the Universal Applications (UAs) and the overnight stay notification forms for the monitoring period thus far, we have observed that approximately half (13 of 28) of the children who had overnight stays in October and November 2021 were assessed by DSS as having a placement need of regular foster care home. While there are some children staying overnight who might be considered “difficult to place,” and require additional supports, many are not; we have seen notes that indicate the only reason for an overnight stay is that multiple children came into the same office on the same night, or there was a miscommunication between case managers and placement staff, or the driving distance would be too long to place a child in an emergency night-to-night placement. Six of the 28 children stayed overnight as a result of recently running away from a prior placement and there was inadequate planning to secure a placement upon their return.

We have continued to find that UAs vary in the quality of information provided. Some UAs explain behavioral challenges, while others are blank. Strengths are inconsistently identified as well. Though there is a space for explanation of concerns for placement related to LGBTQ+ status, we have not seen any UAs with this area filled out with any information about how gender identity, expression, or sexual orientation

***Co-Monitor Concerns re: Increase in Overnight Stays***

November 29, 2021

Page 4

might impact placement needs or presenting behavior challenges. For trans children, we have noticed that they are often referred to by their deadname, and their preferred name is in quotations. In one case we reviewed, a child's identity, and the foster parents' reaction to it, was a significant contributor to their placement disruptions and instability. The UAs we have reviewed confirm what we have heard from some private providers, which is that it is very difficult to understand a child and appropriately match them with a foster parent with so little information. We believe that the inconsistent and, in some instances, inadequate completion of the UAs is a significant contributing factor to challenges with placement matching and stability.

This brief analysis is meant to serve as a constructive notice that the Department must take immediate action to establish placement stabilization or crisis management services to mitigate this situation. It also reinforces the need for DSS to assess its current Placement Implementation Plan, and propose modifications as needed to enhance the placement array and placement capacity throughout the State. We have not seen this level of placement crisis since the beginning of our involvement in this case. This degree of placement instability and the safety concerns inherent in having so many children in an office that is not licensed for this purpose is presenting significant risk to the children involved.

We have not received any information from DSS on immediate actions steps that are going to be taken to mitigate the current crisis, and request that a plan be developed as soon as possible. We are available to brainstorm ideas at your request.

Sincerely,



Judith Meltzer  
President  
Center for the Study of Social Policy



Paul Vincent  
Co-Monitor

cc:

- Emily Parks, Chief of Staff, SCDSS
- Dawn Barton, Director, Permanency Management, SCDSS
- Gwynne Goodlett, Director, Child Health and Well-Being, SCDSS
- Elizabeth Stroup, *Michelle H.* Internal Monitor, SCDSS
- Laurie Holt, *Michelle H.* Program Improvement Manager, SCDSS
- Ira Lustbader, Esq., Chief Program Officer, Children's Rights
- Stephanie Persson, Esq., Staff Attorney, Children's Rights
- Sue Berkowitz, Esq., South Carolina Appleseed Legal Justice Center
- Adam Protheroe, Esq., South Carolina Appleseed Legal Justice Center
- Matthew T Richardson, Esq., Wyche P.A.