



# The Role of the Judge in System Change:

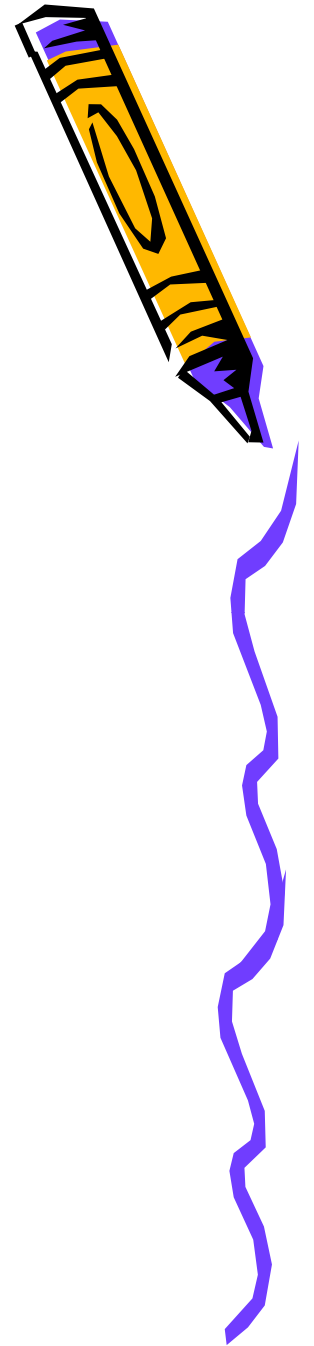
## Making Reasonable Efforts in Unreasonable Economic Times



Judicial Leadership Pre-Conference Seminar  
Albany, New York: March 9, 2010

# Goals

- The history- why
- Changing landscape
- Initiatives
- Leadership/Partnership
- Lessons I have learned
- The future





THESE ARE TOUGH  
ECONOMIC TIMES  
WHAT NOW??



# Status in States

- States' tax revenue fell 11.7% in 1<sup>st</sup> 3 mos of '09- the steepest decline on record
- 45 states reported taxes for Apr and May have seen revenue declines of about 20%
- Corporate income taxes down 18.8% in the first quarter, personal income taxes dropped 17.5%; & sales taxes declined 8.3%
- State tax revenues at 2005 levels in the 1st quarter, erasing 3 yrs of gains for new programs & salaries



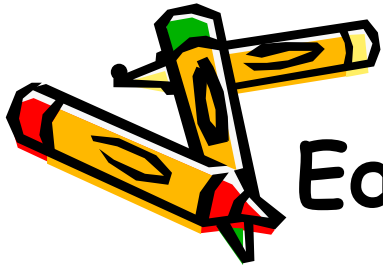
With stimulus money, states face deficits more than \$200 billion in the next few yrs



# 10 States & Their Deficits



- California- Massive cuts in education, layoffs etc- \$20Billion deficit in 2011
- Oklahoma- Ok but energy price drop- 26% revenue drop
- Arizona- Hit by housing and tourism drop- 30% budget gap
- Illinois- pension payment delays and others- looming \$11 Billion gap

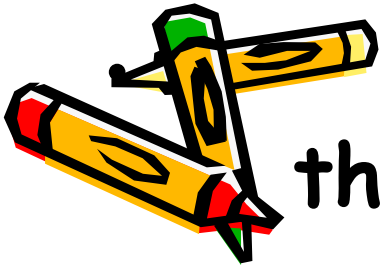


Hawaii- 3 day a month furloughs, Ed cuts, income tax- 21% budget gap



# 10 States & their Deficits

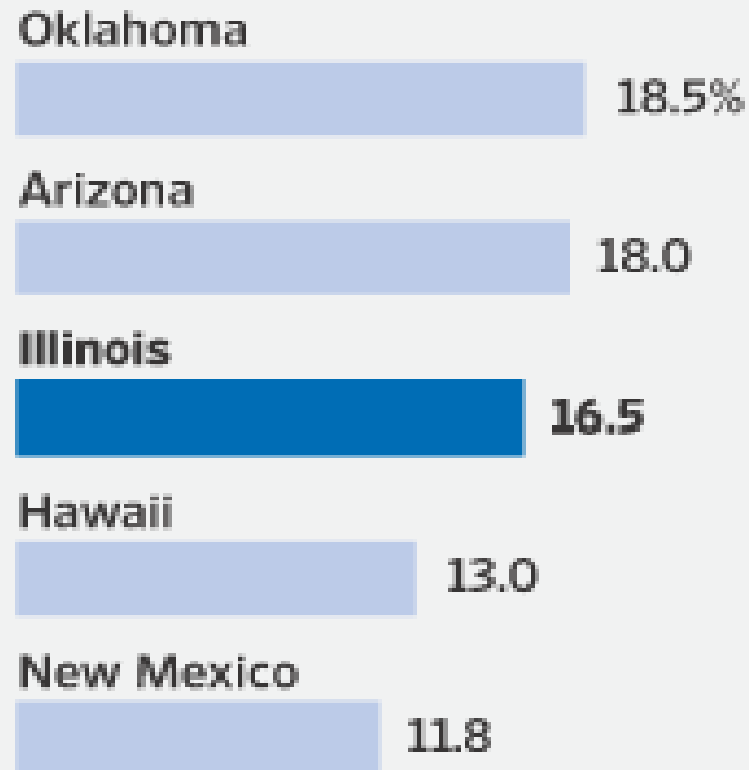
- New Jersey- 3<sup>rd</sup> highest deficit- already cut \$800 million and now more
- New York- 3 Billion deficit and double next year- delay payments to systems
- Nevada- Housing crisis hit hard- 33% budget deficit
- Colorado-efforts to balance budget run into law requiring education increases
- Michigan- unemployment worst in the nation- revenue down lots



# Budget Gaps According to the Wall Street Journal, January 4, 2010

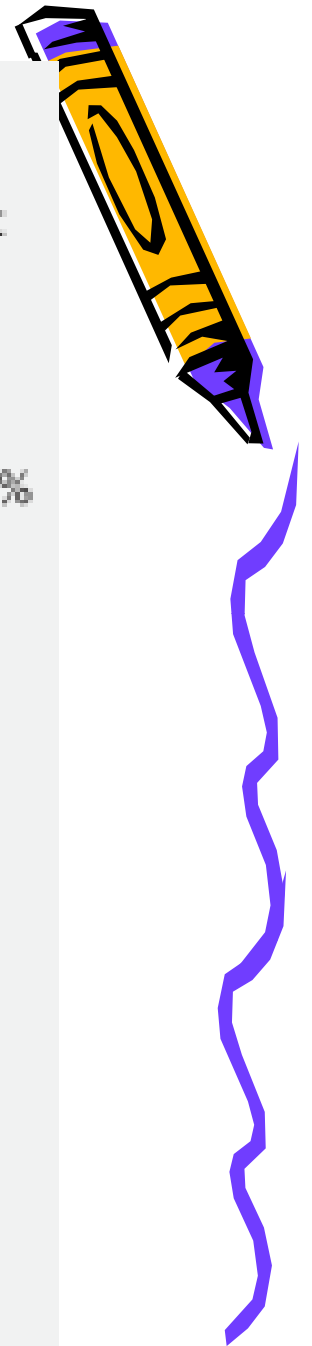
## Coming Up Short

States with the largest budget gaps as a percentage of FY2010 general-fund budgets

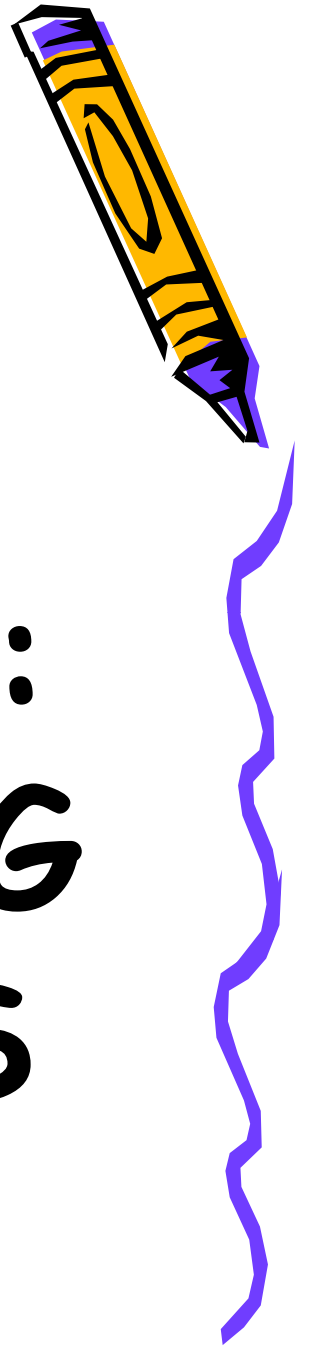


Note: Fiscal year ends June 30 for most states.

Source: National Conference of State Legislatures



# HISTORY OF CHILD WELFARE: UNDERSTANDING THE RESPONSES





# History

- 1<sup>st</sup> reported case of abuse in US
- 18<sup>th</sup> century - Children were indentured to work and learn a trade
- 1832 Cholera epidemic- orphan asylums
- 1853 response to them was NY Children's Aid Society- 1853-1890 moved 92,000 kids to Midwest
- 1886- Charles Birtwell of Boston Champions return home
- 1909- White House Conference adopts Birtwell and temp foster care payments

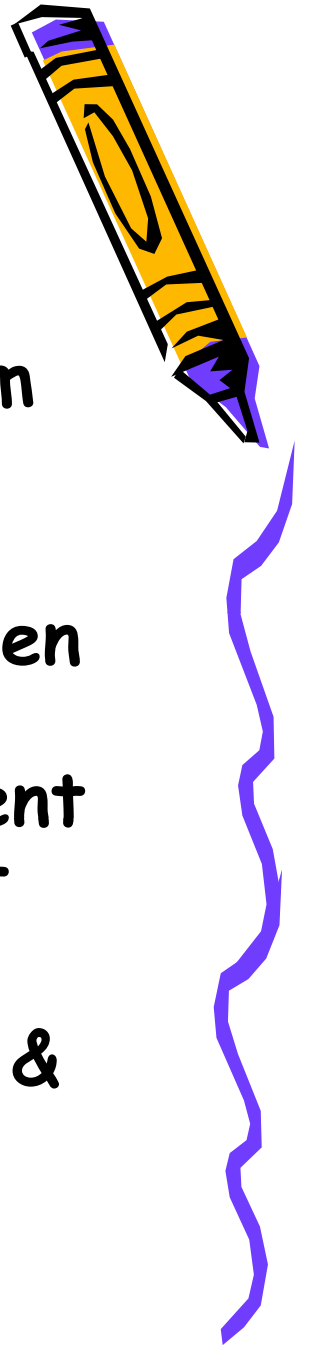


# History

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- 1923- 34 states had Children's Aid Societies- kids exploited- criticism of placing kids out and multiple placements
- 1959- Maas and Engler study- Children in Need of Parents- kids spent 3 years in care- neglect, abandonment and poverty reasons for placement
- The 60's- Fleming Rule- can't refuse AFDC for bad homes- keep AFDC & reasonable efforts to improve

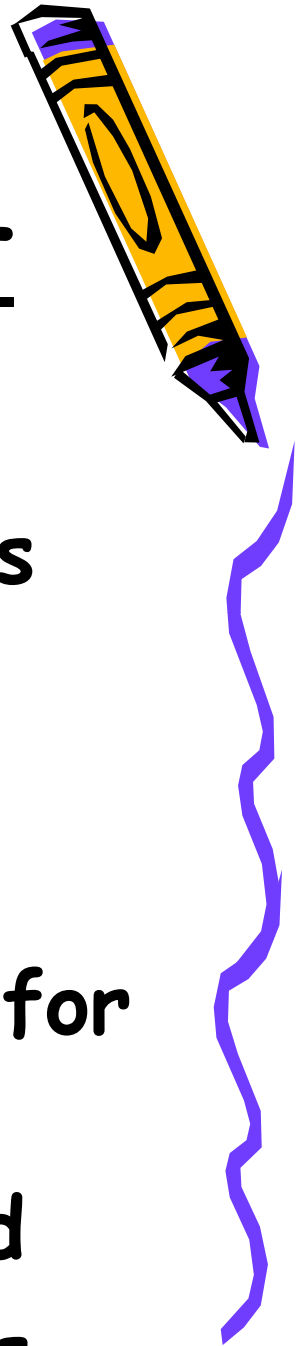
**AND SO THE FEDS  
STEPPED IN!!**



# 1974 Child Abuse Prevention and Treatment Act (CAPTA)

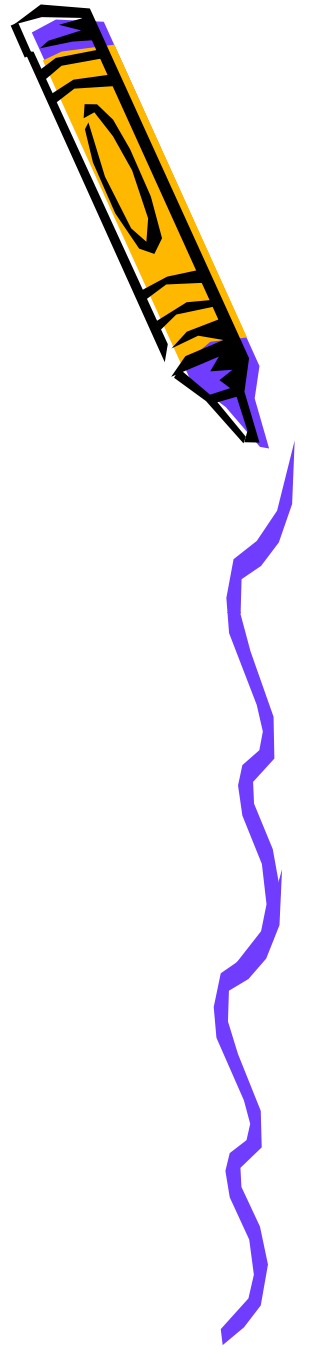
- Child abuse prevention- Children's trust funds
- National Standards for child protection
- Coordinated community response for investigation and prosecution

GAL/CASA for every child  
Research and other grants



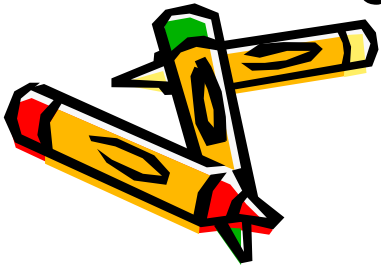
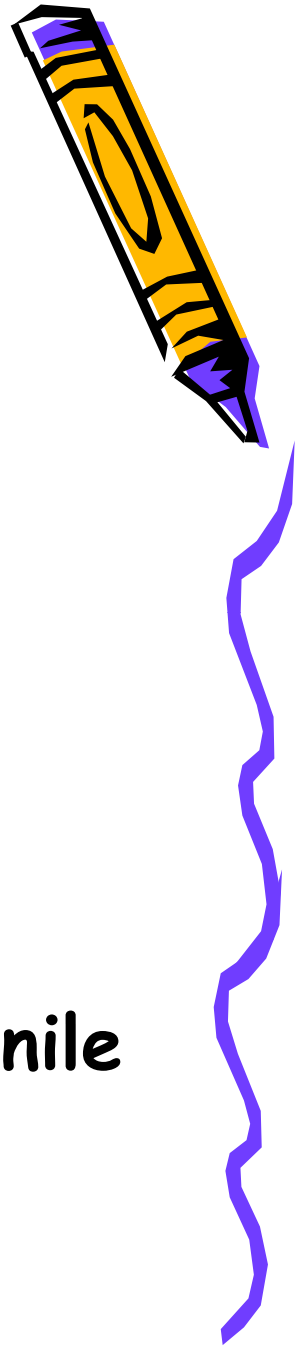
# 1978 Indian Child Welfare Act

- Set out for children of native American heritage
- Process to address problems
- Different standards
- Choice of tribe



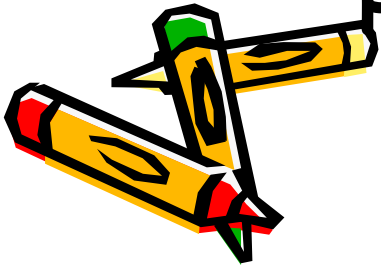
# Public Law 96-272

- The Adoption Assistance and Child Welfare Act of 1980
- To get Federal funds, States must:
  1. implement services,
  2. provide protections for families,
  3. develop mandates and timetables
- Policy- END FOSTER CARE DRIFT
- TRUST IN STATE JUDICIARY- juvenile and family courts



# Federal Requirements of 96-272

- Evaluation of reasonableness of services to preserve families
- Periodic review hearings in foster care cases
- Adherence to deadlines for permanency planning decision
- Procedural safeguards concerning placement and visitation



# 1993 Court Improvement Act

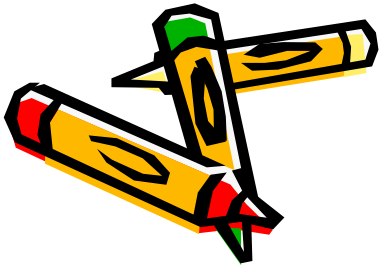


- Review Court data to improve practice
- \$\$ to Supreme Courts for surveys
- Revelations from those reports-  
opinions of stakeholders, time  
frames, permanency issues, etc
- Flexible funding for ID'd programs



# 1994 Multi-Ethnic Placement Act

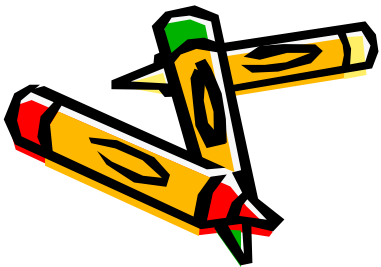
- MEPA
- Response to some state policy initiatives delaying permanency
- Some limits on placement standards
- Has severe penalties- total loss of IV-E funding





# 1995 Block Grants

- Just what it says
- Feds provide \$\$ for states to use as best they saw it with limited regulations- **WAIVERS**



# Adoption & Safe Families Act

## Nov 19, 1997



- Promotes health & safety of the child
- Continues Family Preservation Program
- Promote **TIMELY** decision making
- Clarifies "reasonable efforts"
- Foster care is **TEMPORARY- AGAIN!!**
- Permanency planning begins immediately
- Requires TPR in certain situations



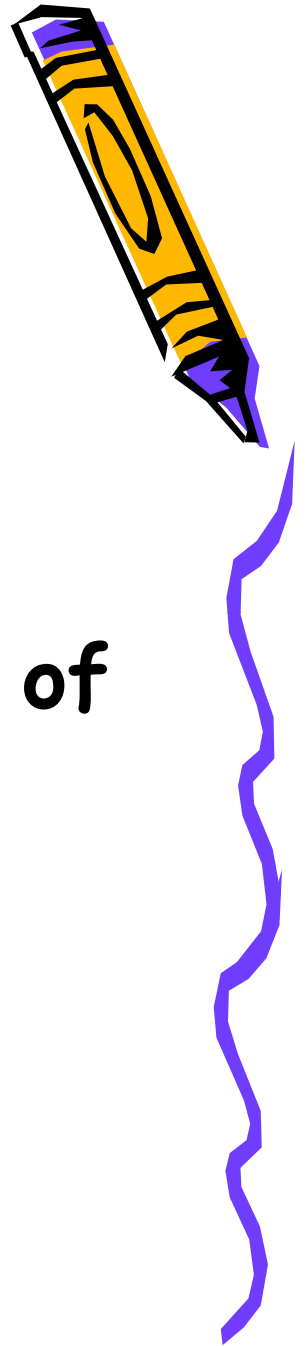
Need for innovation- where do new ideas come from, typically?

# 1999 Foster Care Independence Act

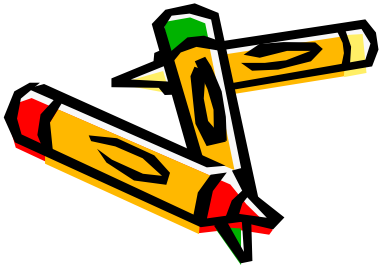
- Provides resources for kids aging out of the system



2001  
Strengthening Abuse and  
Neglect Courts Act



- SANCA
- Helping Courts fulfill the mission of ASFA
- Brings \$\$ to the Courts
- But not enough



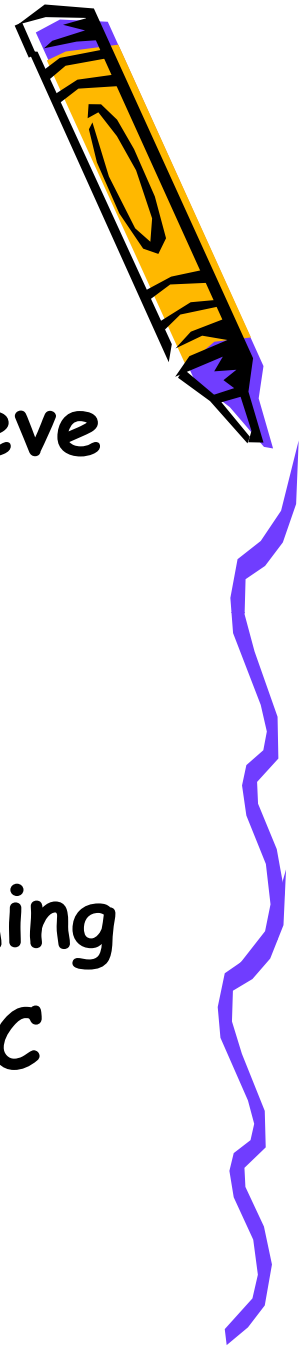
2008

# Fostering Connections Act

- Education stability- attend/achieve
- Health care- Medicaid- EPSDT
- Can extend foster care to 21
- Can us subsidized guardianship
- Kinship care- ID relatives- training
- Over time- delinks to 1996 AFDC

Training support

Tribal issues





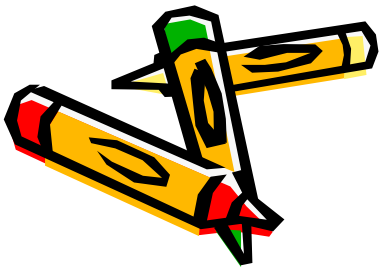
# Recent Changes Effecting Child Welfare



# CHANGING LANDSCAPE OF CHILD WELFARE SERVICES

- Tighter Time-Lines and Higher Level of Accountability to:

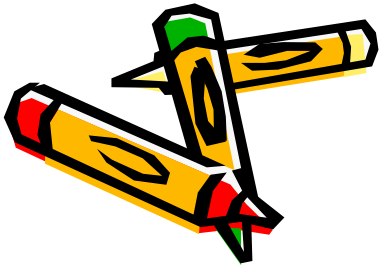
- Ensure the safety and well-being of children- health & safety
- Assess the willingness and ability of parents/caregivers
- Mobilize services for the child and family
- Expedite the achievement of the permanency goal within unless there are "Compelling Reasons"



# CHANGING LANDSCAPE OF CHILD WELFARE SERVICES



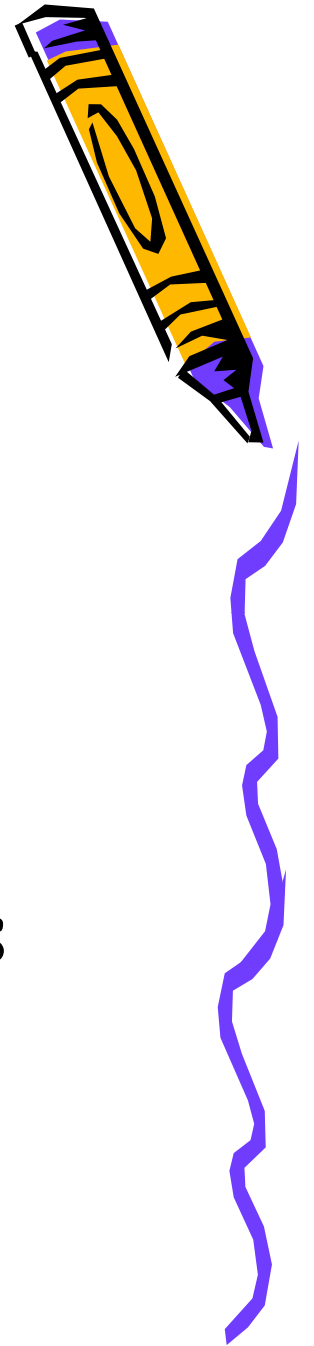
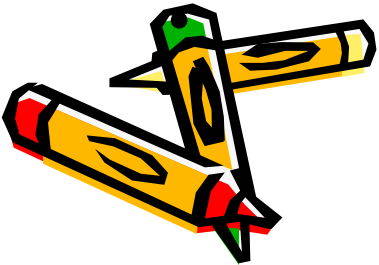
- Greater Emphasis on Collaboration and Partnerships
  - **Community-Neighborhood Responses, Systems and Services** - Keeping the services as close and as accessible to the child and family as possible
  - **Partnerships** - Emphasize Partnerships within the system families, the family's natural supports, service providers, **court participants** and foster families





# CHANGING LANDSCAPE OF CHILD WELFARE SERVICES

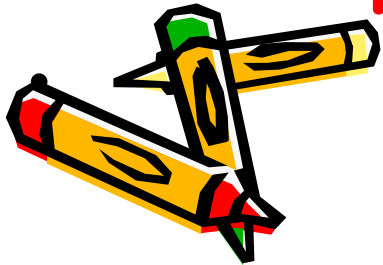
- **Accountability of all:**
  - parents providers
  - system funders
- **Three targets:**
  - Youth Partnerships Tribes
- **Measurements:**
  - Composites, not measures



# CHANGING LANDSCAPE OF CHILD WELFARE SERVICES



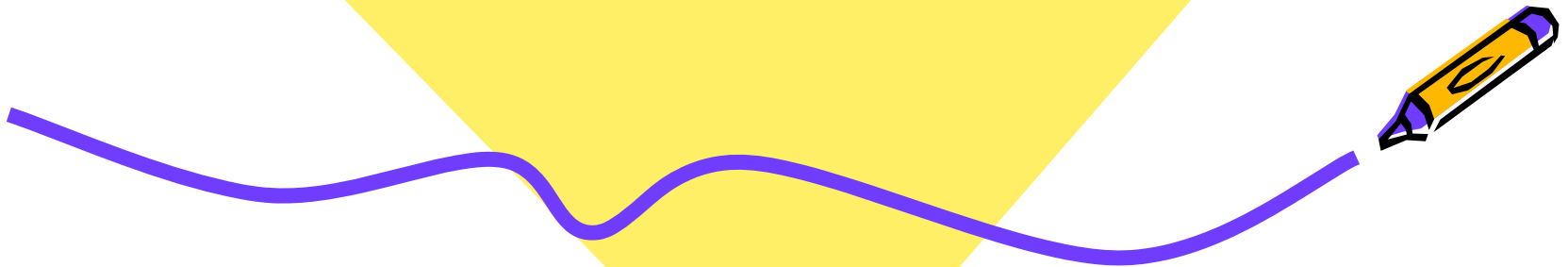
- **Outcomes:**
- Measurable and real- agency, Court and programs
- **Examples-** ACE, CFTM, case manger visits, education, health issues, grandparents, aging out, time in care
- **Philosophy and Practice:**



Will change with outcomes and accountability- the CFSR

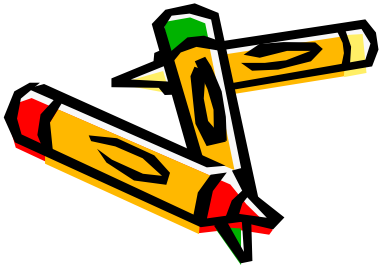


**Initiatives**



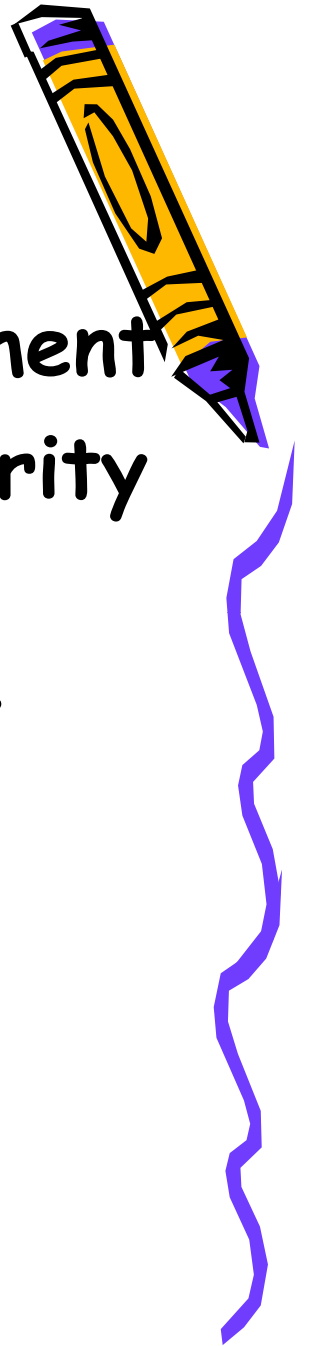
# Community

- Involve all stakeholders
- Expand the network of informal and formal supports
- Establish prevention, reunification and permanency options
- Ensure that the community has financial resources to “do the job”
- Support the efforts of those who take care of those least capable of taking care of themselves



# The Children

- Ensure early appropriate placement
- Provide personal items for security
- Work on school consistency
- Provide neighborhood placement
- Visitation
- Sibling placement or visits
- Inform of status regularly



# Help for Individual Children and Families

- Advise families and others in the case and community about rules & timetables
- Make sure families are engaged in assessing, planning and decision making
- Develop case plan that really responds to the child and family needs- services, accessible, available, timely & culturally competent



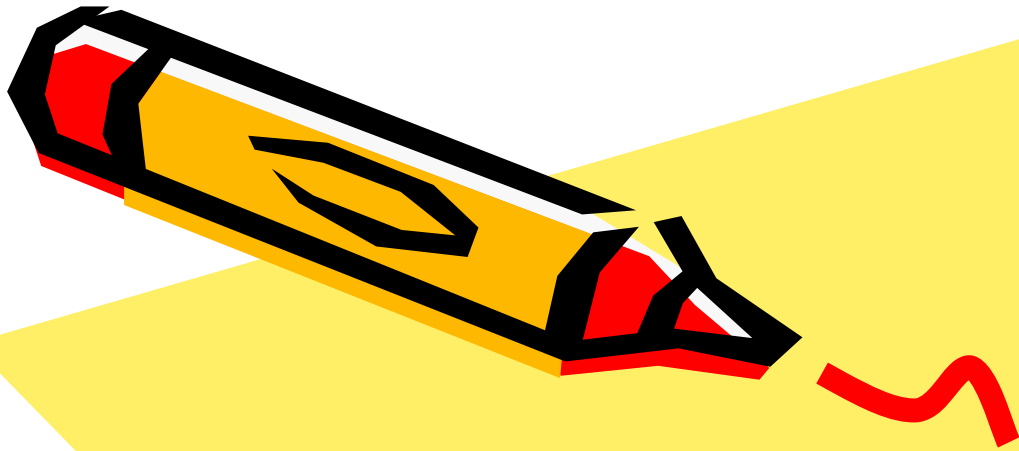
Explore relative placements early  
Help and force families to watch the clock- use this therapeutically



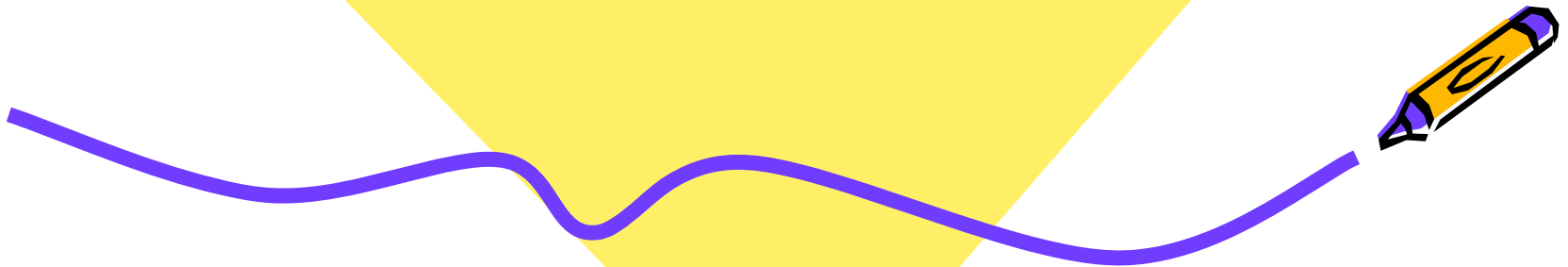
# Heightened Need for Partnerships

- Give priority to child safety
- Keep focus on individual children and families and case by case decision making
- Increase attention to prevention and early support
- Engage families in shared decision making from the beginning
- Focus on strengths of family and community





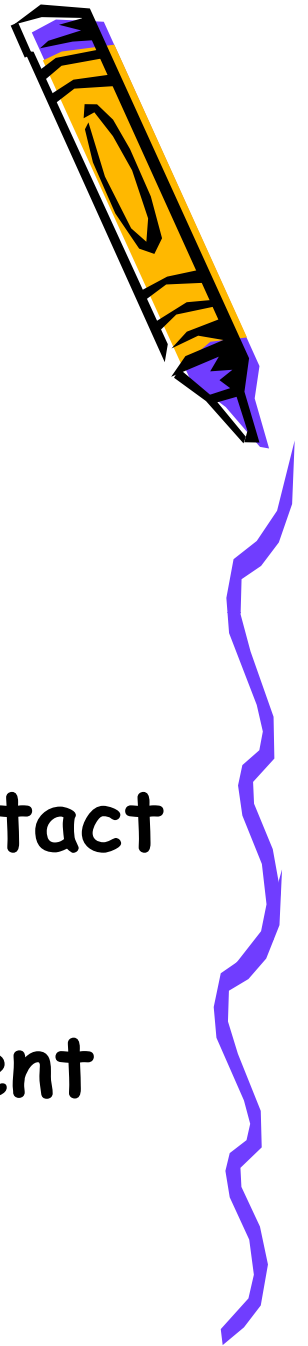
Do Things Early





# 30 Minutes

- Who takes the phone call
- What questions are asked
- What is the follow through
- How is the information assessed
- Who makes the first personal contact
- How is the message conveyed
- What is the request for involvement
- Who is invited to the table
- What happens to the child



# 30 Hours

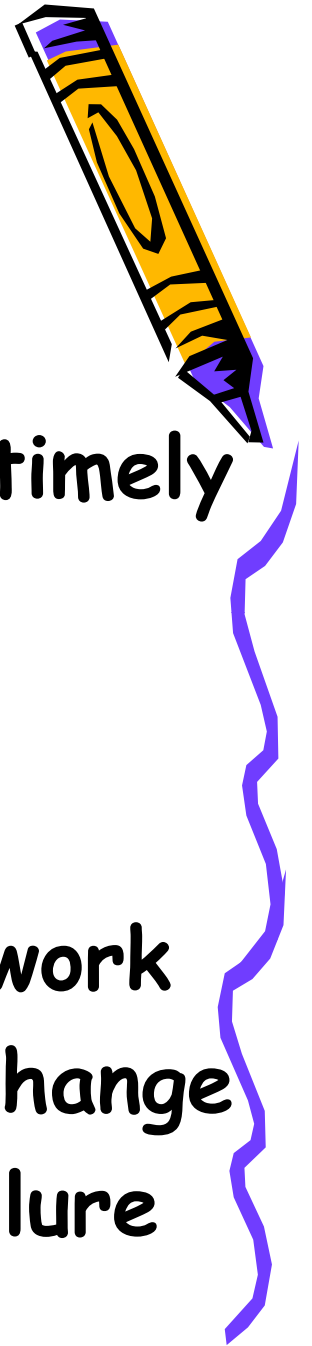
- The decision on placement of child
- Visits
- Assessment of risk/safety
- Services to address risk/safety
- Timeliness of service start
- Location of service delivery
- Assistance for proper referrals
- Involvement of support network
- Follow up of assigned staff



# 30 Days

- Is there participation
- Are the right services available timely
- Additional resources
- Reassessment of risk/safety
- Reassessment of service needs
- Continue to increase support network
- Is the service working- if not, change

Consequences for service failure  
Reward for service success



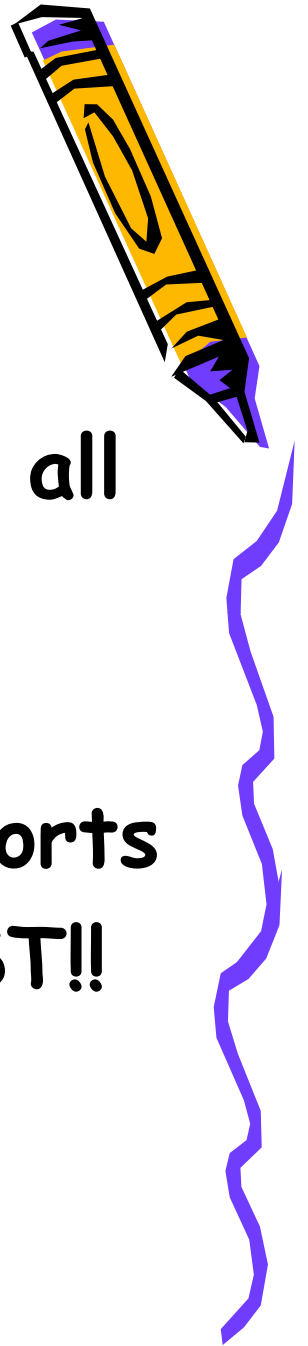
# Early

- Find absent parent/family
- Extended family involvement
- Establish paternity
- Good assessments-reassessments
- Concurrent planning
- File contempt when there is no/little compliance
- Reward families for changes and active participation

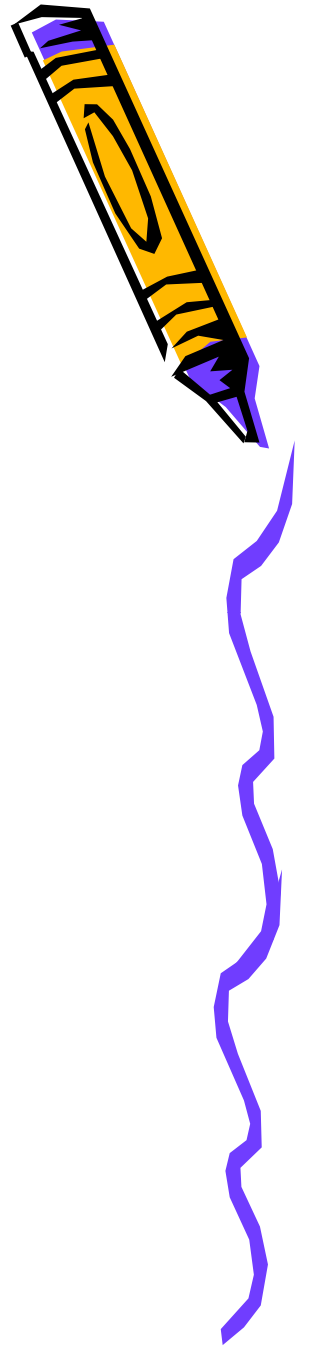


# Better

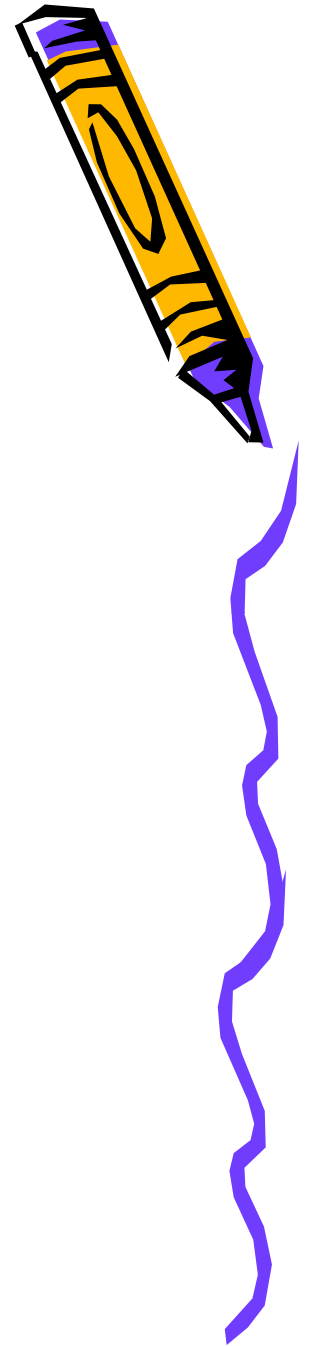
- Agency must be excellent
- Case loads manageable- for all
- 30-30-30
- Frequent contact
- Engage informal family supports
- Time- time- time AND FAST!!
- Together- together
- MEDIA
- Family/team meetings



WHO  
LIKES  
CHANGE  
ANYWAY??

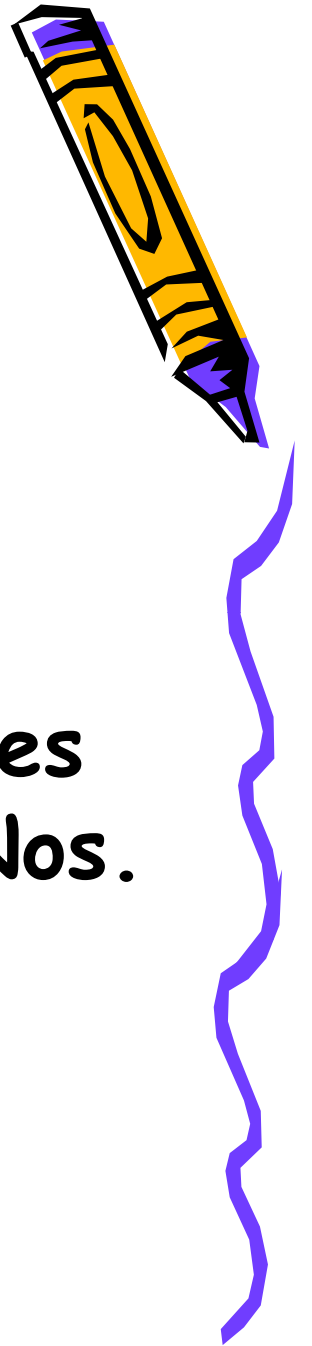


**RED**  
**YELLOW**  
**GREEN**  
**BLUE**  
**RED**  
**BLUE**  
**YELLOW**  
**GREEN**  
**BLUE**  
**RED**



# Things to Look At

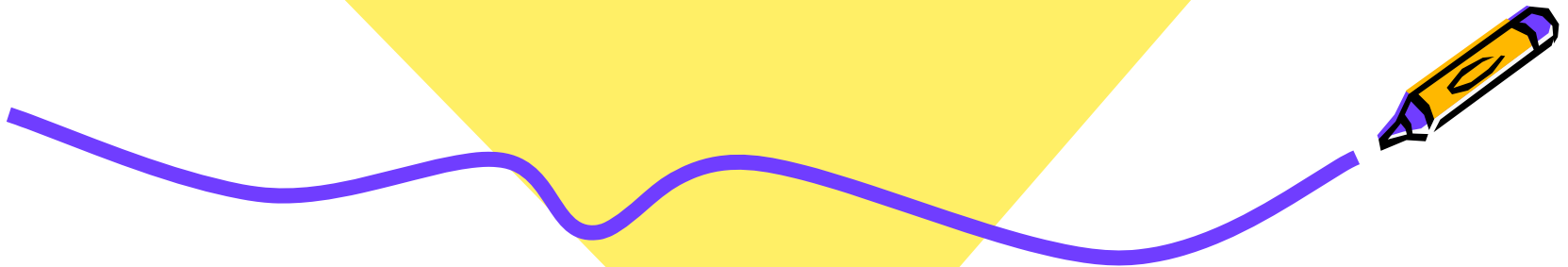
- Kids aging out
- Kids in care too long
- Cases open too long
- Filing per statute and timelines  
Family structure and abuse Nos.
- Educational advocates
- Health care initiatives
- Kids in home- Parents out
- DATA, DATA, DATA,



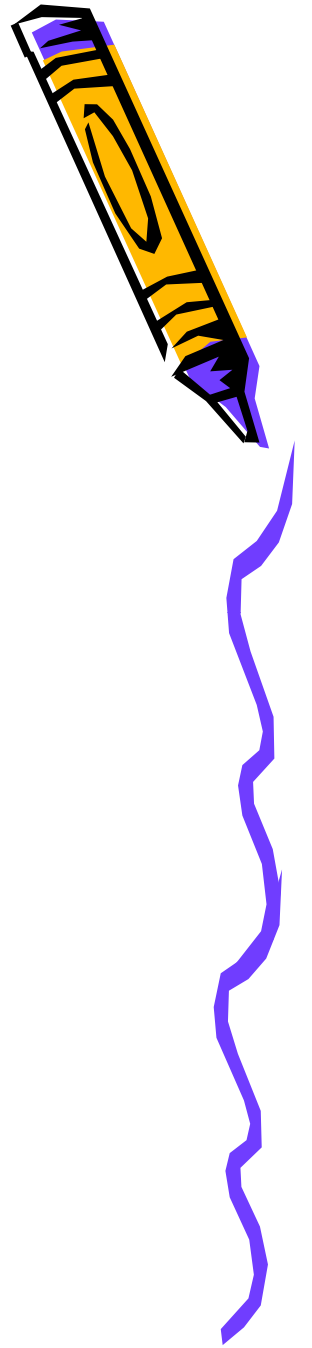




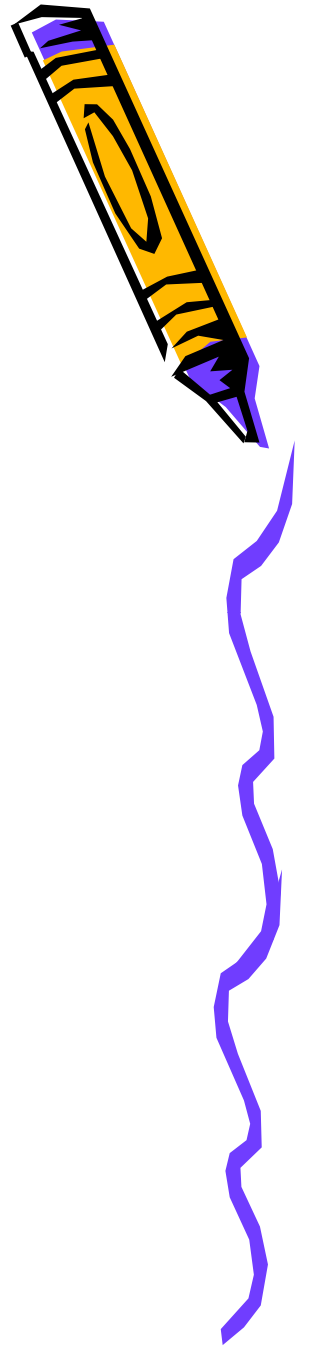
Things I Have  
Learned



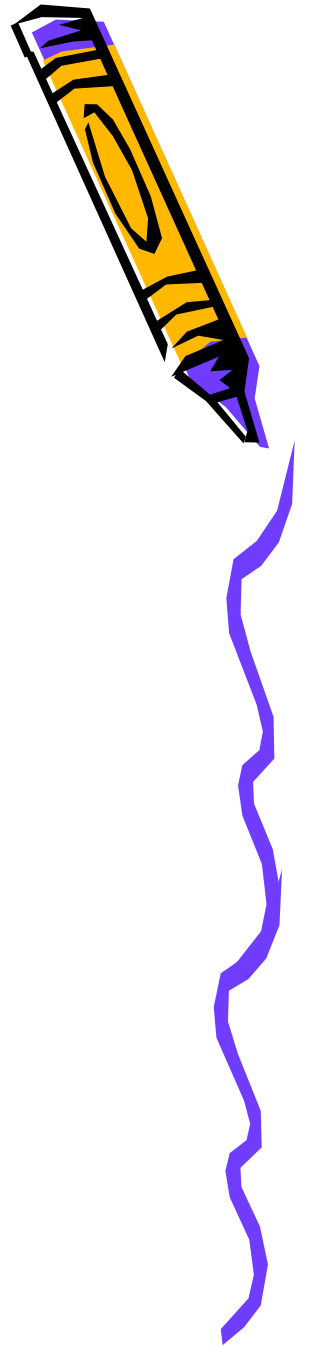
If the agency  
isn't working well,  
the system won't  
be either



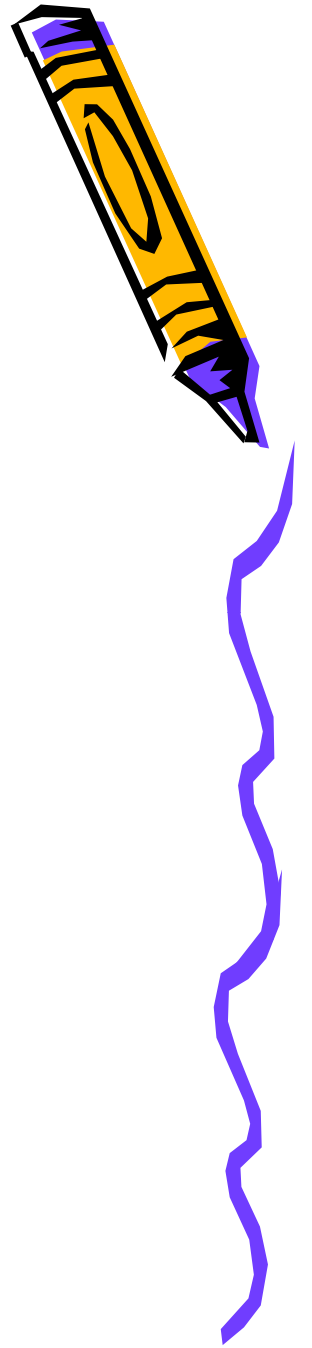
**Caseloads are  
important!!**



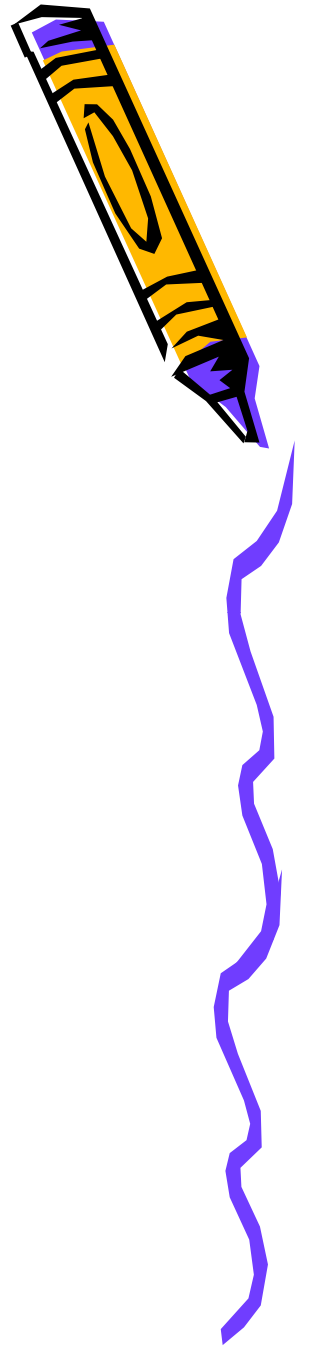
The whole system  
tends to keep  
doing things the  
same way



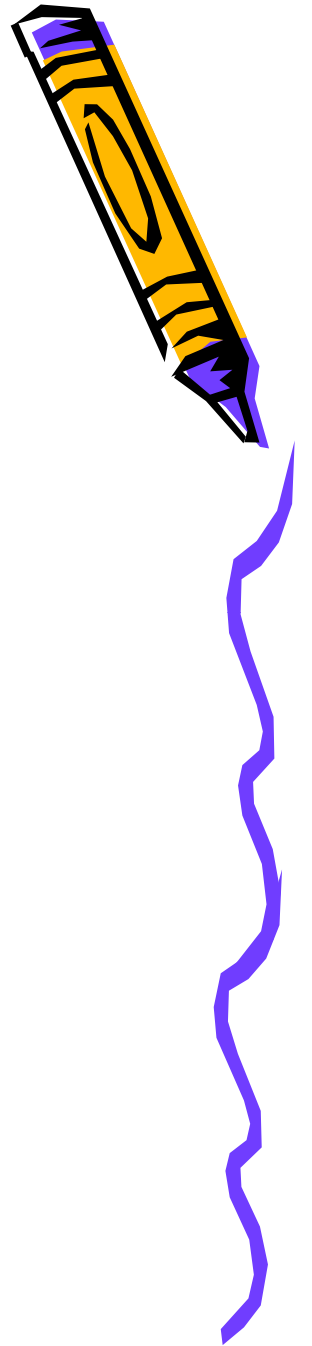
Change comes  
from a few and  
threatens many



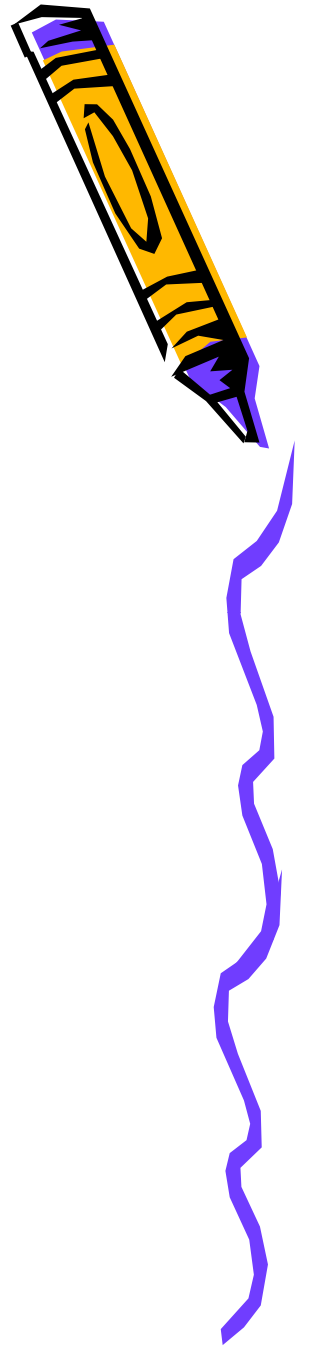
A Judge can fix  
a little but not  
the whole thing



The only way to  
fix it is to....



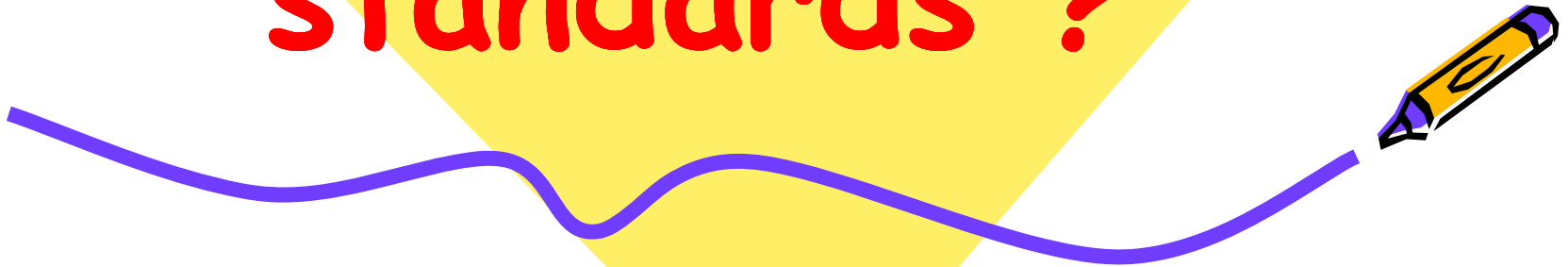
**Money is  
important**



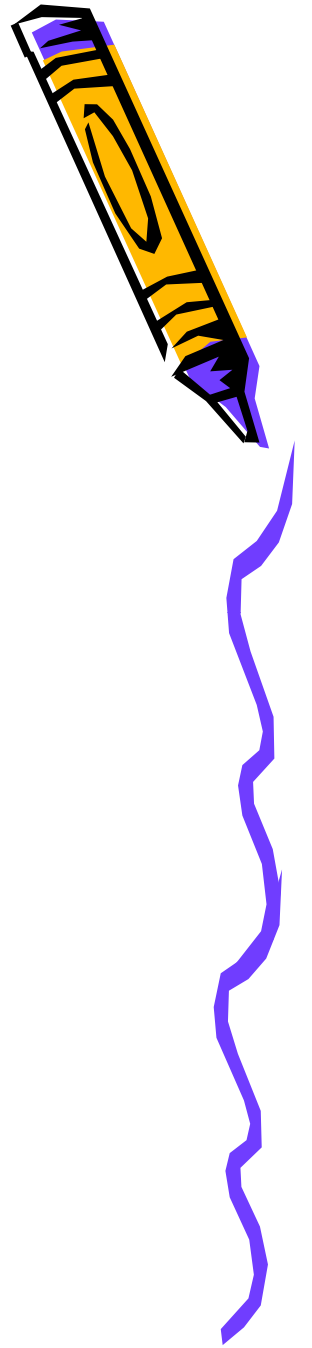




Are we looking at  
new "minimum  
standards"?



# THE CFSR AND PIP

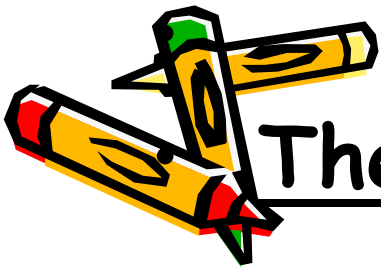
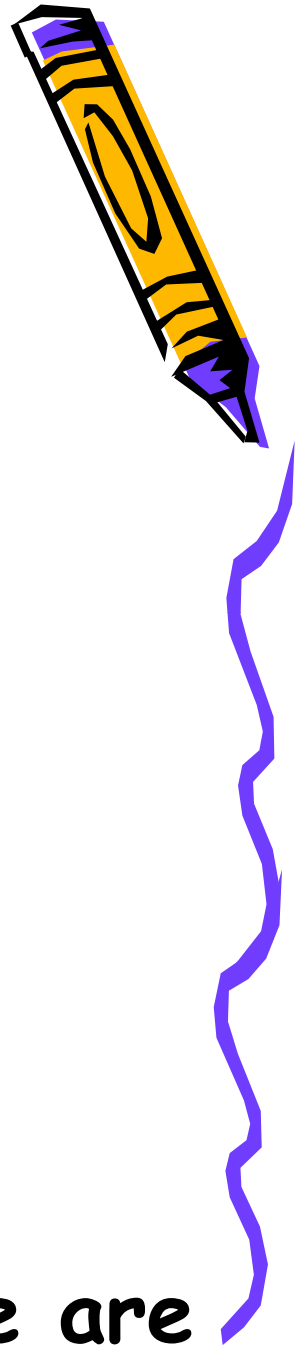


# The CFSR

- 2<sup>nd</sup> round Began in 2007
- Standards are composites
- Teams to review work
- Compare last time to this
- Requires a state team approach
- Are intense and extensive
- Chance to show partnership

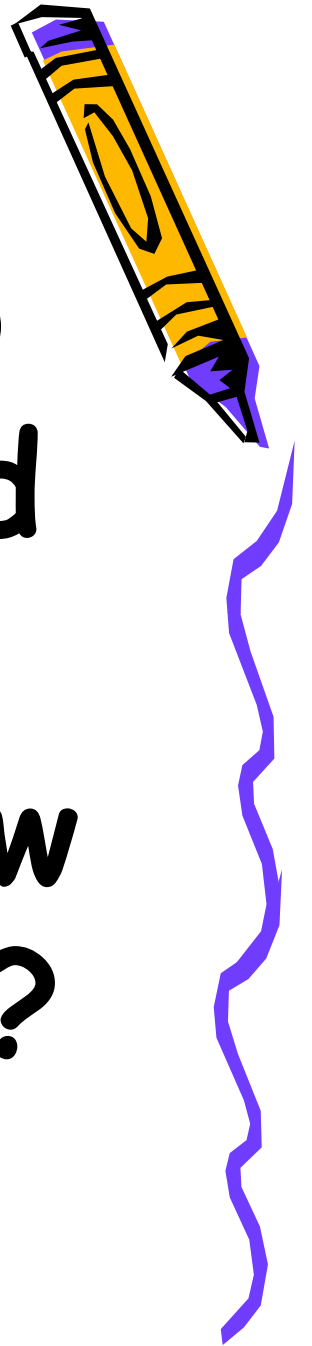
Followed by the PIP??

The best chance to show who we are



# FIRST

What do states do  
when they have had  
the CFSR and/or  
issued a PIP and now  
the bottom fell out?



## SECOND

What do states do  
facing the CFSR and  
what do they  
consider when they  
put a PIP together?



## The "New Normal" - recovery may be slower and shallower



- Current recession- more than a cyclical event- drive deep structural changes in every industry
- Economic activity & demand patterns will not simply return to pre-recession levels- 2011 won't be 2007
- Some pre-recession trends will be reversed; others will be sharply accelerated
- Every country is going through some level of adjustment or restructuring - the question is to what end?
- What are the characteristics of the New Normal for their industries, their markets, and the people they serve?
- Human Services organizations that restructure for their New Normal will be best prepared to serve their citizens in both good & bad times



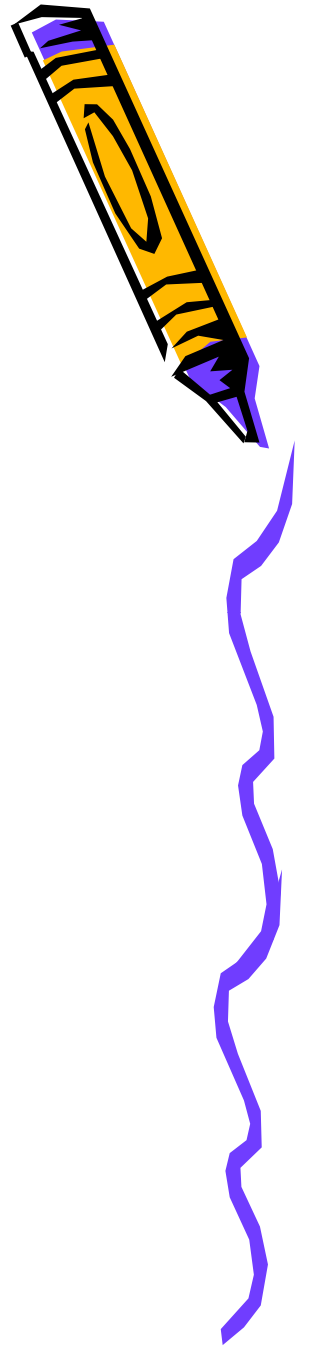
# Are we are in changing times!!



- We can choose to keep doing what we are doing, or
  - We can use this time of economic crisis to make the changes we need to prepare the agency, courts & System infrastructure for later.
1. Control costs through good fiscal management and good use of the resources we have
  2. Redesign Service Delivery to be cross-program and child and family outcome-focused
  3. Do services one time- demand timeliness & outcomes!
- In this way, we can have the same impact on our service delivery infrastructure as we have for the highway infrastructure - make an investment from which our children will enjoy the benefits



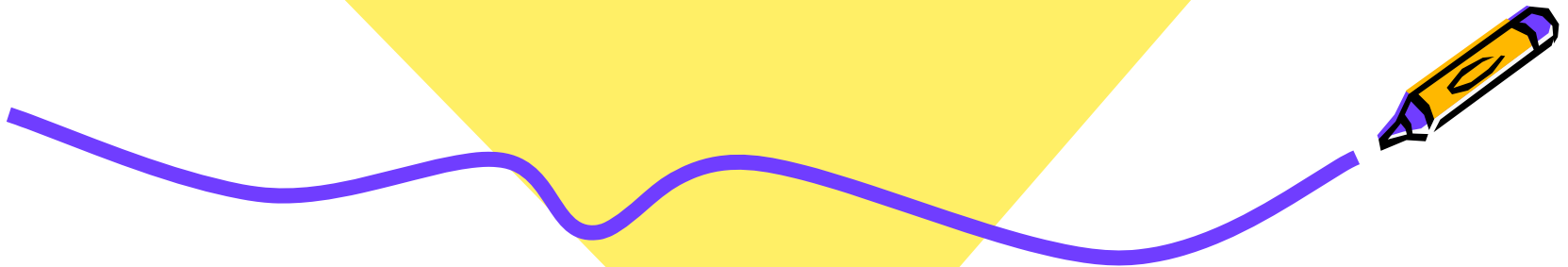
If so, what do We look  
at or ask to get there-  
AND how far do we  
go??







# Things To Watch



# We All Have to Watch



- This is our job and passion
  - We cannot ignore the reality of \$\$
  - \$\$ not the most important thing, but-
  - Funding is changed for years
  - Programs & expectations must also
  - Demands of scarce resources
  - Communicate for the system- use Media
  - What happens to the service folks
- The local, state and national scenes



# Things to Watch- 2

- Watch the new- Congress and new bills
- Enforce the old?- NYTD, Fostering Connections, ASFA/CFSR/PIP, etc
- Governor's & leg's ratings- Nov. election
- Small agency survival
- Service agency consolidation
- Contributions- United Ways, Foundations
- Agency turnover- at the top
- Agency turnover at case worker
- Data- data- data!!!!!!



# Things to Watch - 3

- Federal budgets
- Local state budgets
- Nationally- other state's budgets
- Local county budgets
- CASELOAD/WORKLOAD
- TA & help from Resource Centers
- Increase cooperation from others
- New leadership taking these challenging times to lead us
- New family dynamics and support



# Issues to address

- Services available
  - Timely available
  - Services done in 12 months or less
  - Parent(s) in jail or prison
  - TPR with no ID'd adoptive parent
  - Length of time of final ruling on TPR
  - Process to find an adoptive parent
  - Changing mindset of system people
- Doing more with less- \$\$ and people



# REDEFINE:

- Who we serve
- Who we support
- Who we include
- Who must include
- What we insist on
- Success
- Failure
- Who the team is
- How we work together

