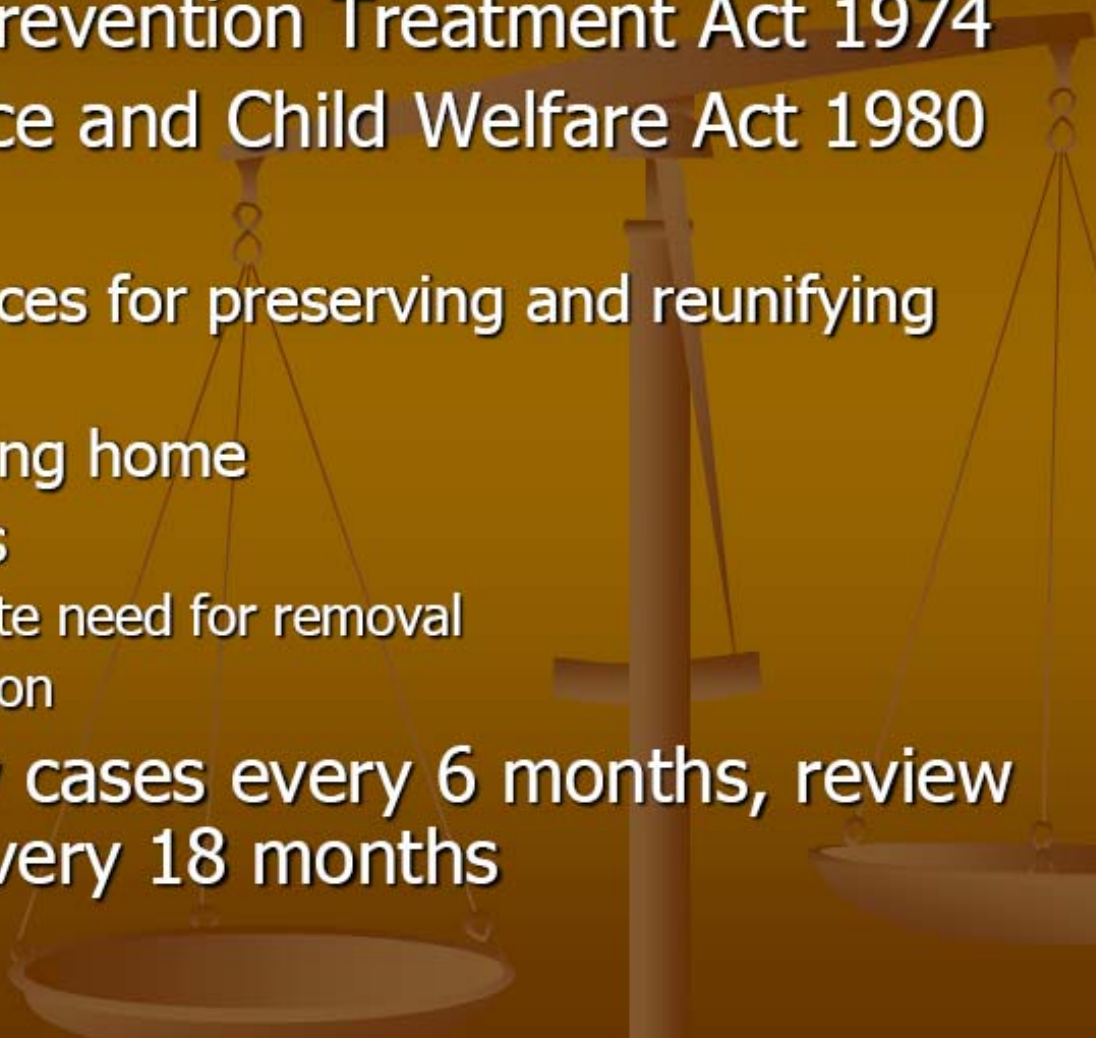




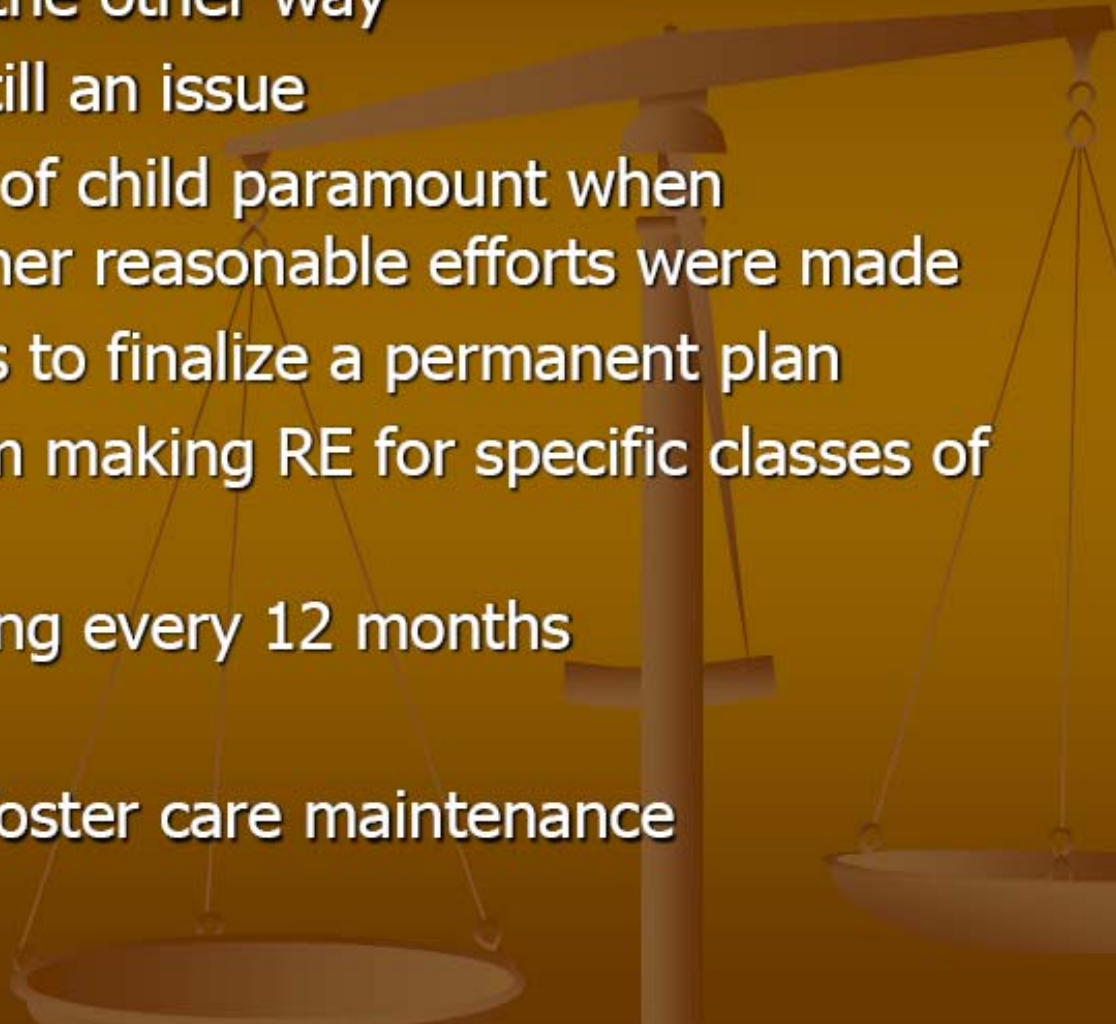
Making “Reasonable Efforts” In A Time Of Fiscal Crisis

Panel Discussion
2011 Annual Child Welfare Law Update
August 12, 2011

Reasonable Efforts History

- Child Abuse and Prevention Treatment Act 1974
 - Adoption Assistance and Child Welfare Act 1980
 - Foster care drift
 - Insufficient resources for preserving and reunifying families
 - Children never going home
 - Reasonable efforts
 - Prevent or eliminate need for removal
 - Achieve reunification
 - Court must review cases every 6 months, review permanent plan every 18 months
- 

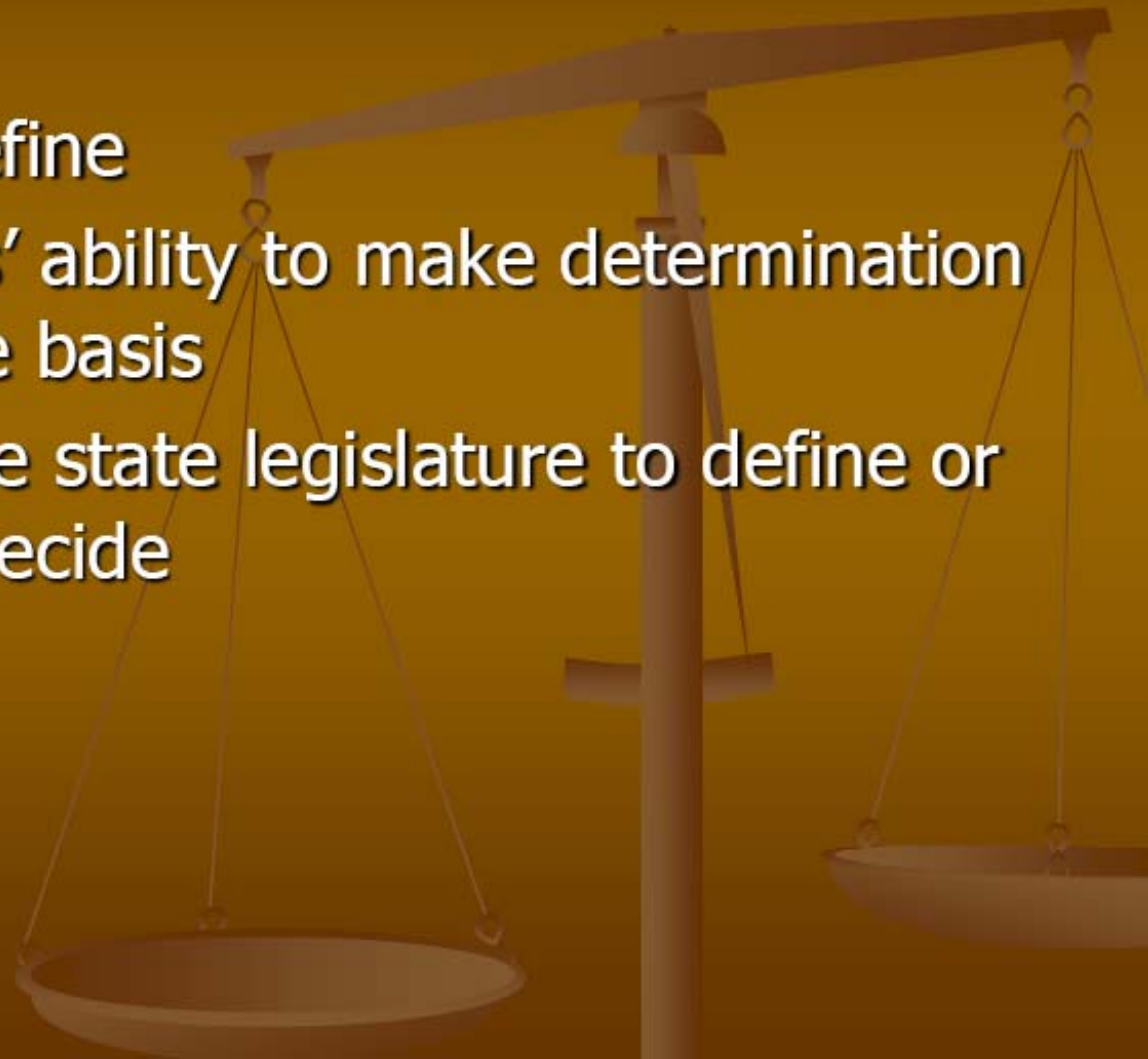
■ The Adoption and Safe Families Act of 1997

- Pendulum swung the other way
 - Foster care drift still an issue
 - Health and safety of child paramount when determining whether reasonable efforts were made
 - Reasonable efforts to finalize a permanent plan
 - Excused state from making RE for specific classes of parents
 - Permanency hearing every 12 months
 - 15/22 months
 - Enforcement: no foster care maintenance reimbursement
- 

What is reasonable efforts?

■ Feds

- Not going to define
- Limit the courts' ability to make determination on case by case basis
- RE left up to the state legislature to define or state court to decide



Question: What is the definition of "reasonable efforts?"

Answer: We have not, nor do we intend to define "reasonable efforts." To do so would be a direct contradiction of the intent of the law. The statute requires that reasonable efforts determinations be made on a case-by-case basis. We think any definition would either limit the courts' ability to make determinations on a case-by-case basis or be so broad as to be ineffective. In the absence of a definition, courts may entertain actions such as the following in determining whether reasonable efforts were made:

- (1) Would the child's health or safety have been compromised had the agency attempted to maintain him or her at home?
- (2) Was the service plan customized to the individual needs of the family or was it a standard package of services?
- (3) Did the agency provide services to ameliorate factors present in the child or parent, i.e., physical, emotional, or psychological, that would inhibit a parent's ability to maintain the child safely at home?
- (4) Do limitations exist with respect to service availability, including transportation issues? If so, what efforts did the agency undertake to overcome these obstacles?
- (5) Are the State agency's activities associated with making and finalizing an alternate permanent placement consistent with the permanency goal?

Hawaii's definition

- No specific definition
 - HRS 587A
 - Purpose; Construction
 - Safe family home factors
 - Service plan
 - Return hearing
 - Periodic review hearing
 - Permanency hearing
 - Focus on child's physical or psychological health or welfare
- 