

Background

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Foster Care: Safety Net or Trap Door?

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Abstract: *For tens of thousands of endangered children, foster care has become a trap door rather than the safety net they need to help them succeed. In particular, federal financing policies have favored foster care over other child welfare approaches, leading states to overuse foster care to the detriment of children who could be adopted or whose families could be rehabilitated. Congress should give states more flexibility in how they can use federal funding and stop providing foster care funding on a per capita basis, which promotes this dependence. States should refocus on achieving the best outcomes for children. Among other approaches, state agencies should work with private-sector agencies and faith-based networks to find adoptive parents and guardians for children languishing in foster care.*

Vulnerable children endangered in their own homes due to neglect or abuse are innocent victims of social breakdown. They are in danger now, and they will likely suffer lasting harm if the law does not protect them and provide a safety net of temporary, substitute family care. Federal and state foster care programs exist to provide this safety net. The priorities should be (1) to provide endangered children with a safe, nurturing family environment with minimal disruptions to their education and development and (2) to enable them to move quickly from foster care to family permanency through family reunification, adoption, or guardianship.

Sadly, for many tens of thousands of children and youth, foster care is more like a trap door than a safety net, beneath which they languish for years in multiple

Talking Points

- Of the 424,000 children in foster care, 23 percent have been in foster care for more than three years and 11 percent have been in for more than five years.
- For many tens of thousands of children and youth, foster care is more like a trap door than a safety net, beneath which they languish for years in multiple placements without the loving parents and permanent family that all children need and deserve.
- States tend to overuse foster care because they receive federal matching funds for every qualifying child in care.
- Congress should consolidate Title IV foster care funding to enable states to tailor plans to meet the individual needs of each child in foster care.

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placements without the loving parents and permanent family that all children need and deserve. Long-term foster care is the de facto case plan for many children. As a result, every year tens of thousands of youth age out of foster care without a family. The child welfare system as a whole, of which foster care is the largest and most costly piece, needs comprehensive reform.

Federal foster care financing policies have created an imbalance in the funding of foster care over other child welfare approaches, resulting in children languishing in foster care unnecessarily. Congress should reform Title IV-E¹ financing to replace the per-capita foster care funding structure with a more flexible structure that would enable states to use the family permanency strategies that are best for each abused or neglected child, whether family preservation and reunification or placement in a new family through adoption or guardianship.

In addition to a financial overhaul, the entire system needs to be reevaluated. Foster care suffers from bureaucracies that are unfriendly to prospective parents and caregivers; juvenile and family courts that fail to make timely decisions on permanency; state agencies that are averse to working with the private sector, especially faith-based communities; decision makers that adhere to various ideologies and biases over children's best interests; a culture of hopelessness regarding the adoption of older children; a maze of complex federal claiming rules and reporting requirements that micromanage states; and state child and family services that are not held accountable for poor performance. These multiple failures compound the challenges that abused and neglected children and youth already must overcome to succeed.

Children in Foster Care: Who They Are and What They Experience

In August 2010, the Adoption and Foster Care Analysis and Reporting System (AFCARS) in the Department of Health and Human Services (HHS)

reported improved child welfare data for fiscal year (FY) 2009. According to these preliminary figures, 424,000 children were in foster care at the end of the year, the lowest level since 1991. (See Table 1.) Exits from foster care exceeded entries for the second year in a row, and a record number of children, nearly 56,000, were adopted out of foster care. (See Table 2.)

However, the system has a long way to go before it can be considered to be performing well for abused and neglected children. For the 424,000 children and youth still in foster care, little has changed. The average foster child is 9.6 years old and stays in foster care for 27 months. Of these children, 23 percent have been in foster care for more than three years and 11 percent have been in for more than five years.²

In 2009, 276,000 children and youth exited foster care at an average age of 9.6 years after an average stay of 22 months. For each of the three major races, nearly the same percentage of children and youth enter foster care as exit. Blacks accounted for 25 percent of entries and 27 percent of exits. Hispanics were 20 percent of both entries and exits, and whites were 44 percent of entries and 43 percent of exits. Slightly more than half exited through reunification and 20 percent through adoption. Disturbingly, for the eighth year in a row, an increased percentage of youths (now 11 percent) aged out of the system without a family or home—"emancipated" in the euphemism of child welfare speak.³

At the end of FY 2009, about one-half of the children in foster care had the case goal of reunification with their parents or caregivers, and one-fourth had the case goal of adoption. Nearly 10 percent were planned to be placed with guardians or other relatives. Almost 15 percent had the case goal of long-term foster care or emancipation, although "goal" seems to be an inaccurate term for giving up on finding families for these abandoned youths. Table 2 displays the outcomes for children and youth in foster care from 1998 to 2009.

1. 42 U.S. Code §§ 670–679c.

2. U.S. Department of Health and Human Services, Administration for Children and Families, "The AFCARS Report," July 2010, at http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report17.htm (September 27, 2010).

3. *Ibid.*

Foster Care Entries, Exits, Number Served, and In Care at Year End

Rate equals the number of children in a given category per 1,000 children in the population.

Fiscal Year	Entered Care		Total Served		Left Care	In Care on Last Day of Fiscal Year	
	Number	Rate	Number	Rate	Number	Number	Rate
1982	161,000	2.6	434,000	6.9	172,000	262,000	4.2
1983	184,000	2.9	447,000	7.1	178,000	269,000	4.3
1984	184,000	2.9	456,000	7.3	180,000	276,000	4.4
1985	190,000	3.0	460,000	7.3	184,000	276,000	4.4
1986	183,000	2.9	456,000	7.3	176,000	280,000	4.5
1987	222,000	3.5	502,000	8.0	202,000	300,000	4.8
1988	199,000	3.1	511,000	8.1	171,000	340,000	5.4
1989	222,000	3.5	569,000	9.0	182,000	387,000	6.1
1990	238,000	3.7	617,000	9.6	217,000	400,000	6.2
1991	224,000	3.4	624,000	9.6	210,000	414,000	6.4
1992	238,000	3.6	652,000	9.9	225,000	427,000	6.5
1993	230,000	3.4	657,000	9.8	212,000	445,000	6.6
1994	254,000	3.7	698,000	10.3	230,000	468,000	6.9
1995	255,000	3.7	710,000	10.4	227,000	483,000	7.0
1996	237,000	3.4	725,000	10.5	218,000	507,000	7.3
1997	251,000	3.6	758,000	10.9	231,000	537,000	7.7
1998	299,000	4.3	817,000	11.7	257,000	559,000	8.0
1999	293,000	4.2	812,000	11.6	250,000	567,000	8.1
2000	293,000	4.0	811,000	11.0	272,000	552,000	7.5
2001	296,000	4.0	813,000	11.0	269,000	545,000	7.4
2002	295,000	4.0	800,000	10.8	278,000	523,000	7.1
2003	289,000	3.9	787,000	10.6	278,000	510,000	6.9
2004	298,000	4.0	786,000	10.6	280,000	507,000	6.8
2005	308,000	4.1	798,000	10.7	287,000	511,000	6.9
2006	303,000	4.1	799,000	10.7	290,000	510,000	6.8
2007	293,000	3.9	783,000	10.5	287,000	494,000	6.6
2008	274,000	n/a	748,000	n/a	288,000	460,000	n/a
2009	255,000	n/a	700,000	n/a	276,000	424,000	n/a

Sources: Committee on Ways and Means, U.S. House of Representatives, *Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means*, 2008, pp. 11-13 and 11-14, Table 11-5, at <http://democrats.waysandmeans.house.gov/singlepages.aspx?NewsID=10490> (March 1, 2011), and U.S. Department of Health and Human Services, Administration for Children and Families, "Trends in Foster Care and Adoption—FY 2002—FY 2009," at http://www.acf.hhs.gov/programs/cb/stats_research/afcars/trends.htm (March 4, 2011).

Table I • B 2535  heritage.org

The process of adopting a child out of foster care is shockingly slow, resulting in children becoming less likely to be adopted as they grow older. The average length of time in continuous foster care for the 115,000 children who are waiting to be adopted is 38 months: 44,000 have been in continuous care for more than three years, and 19,000 for more than five years. Children adopted in 2009 stayed

in foster care for an average of 14 months between termination of parental rights (TPR) and adoption, indicating poor case planning. Why was the system not ready to complete the adoptions when the TPRs were complete? The average age of a child adopted from foster care in 2009 was 6.3 years, and the average waiting child was 8.1 years old.⁴ Dr. Wade Horn, former Department of Health and Human Services

Foster Care Exit Outcomes

Percentage and Number of Children Exiting Foster Care

Year	Reunification with Parent(s) or Primary Caretaker(s)		Living with Other Relative(s)		Adoption		Emancipation		Guardianship		Transfer to Another Agency		Runaway		Death of Child	
1998	60%	155,267	9%	24,194	15%	38,221	7%	17,310	2%	5,916	3%	8,300	3%	7,203	0%	589
1999	58%	145,341	10%	24,019	17%	41,692	8%	18,964	3%	6,713	3%	7,335	2%	5,381	0%	555
2000	57%	156,050	10%	25,896	17%	47,040	7%	20,172	3%	9,043	3%	7,461	2%	5,752	0%	586
2001	57%	154,645	10%	26,724	17%	46,778	7%	19,039	3%	8,325	3%	7,765	2%	5,180	0%	545
2002	56%	158,597	10%	28,888	18%	51,124	7%	20,358	4%	10,535	3%	7,052	2%	4,893	0%	553
2003	55%	155,499	11%	31,572	18%	50,355	8%	22,432	4%	10,959	2%	6,439	1%	4,158	0%	586
2004	54%	151,648	12%	33,397	18%	51,413	8%	23,121	4%	12,519	2%	6,126	2%	4,261	0%	514
2005	54%	155,608	11%	31,362	18%	51,323	9%	24,407	4%	12,881	2%	6,440	2%	4,445	0%	534
2006	53%	154,103	11%	30,751	17%	50,379	9%	26,517	5%	15,010	2%	6,683	2%	5,049	0%	509
2007	53%	153,868	9%	27,720	18%	52,235	10%	29,730	6%	18,158	2%	6,118	2%	4,697	0%	473
2008	52%	148,340	8%	23,944	19%	54,284	10%	29,516	7%	19,941	2%	5,195	1%	3,324	0%	456
2009	51%	140,061	8%	21,424	20%	55,684	11%	29,471	7%	19,290	2%	6,291	1%	2,141	0%	417

Sources: U.S. Department of Health and Human Services, Administration for Children and Families, *Adoption and Foster Care Analysis and Reporting System Report Nos. 10–17*, at http://www.acf.hhs.gov/programs/cb/stats_research/index.htm (March 11, 2011).

Table 2 • B 2535  heritage.org

Assistant Secretary for Children and Families, testified that once a waiting child reaches the age of 9 in foster care, he or she is more likely to remain in foster care than be adopted.⁵

Despite some improvements, the system still lacks the timeliness and urgency needed to provide families for waiting children. Increasing numbers are aging out of foster care at the age of 18 (or up to 21 in some states) without parents and family. The outcomes for these young people are alarming. Compared with their peers, they are less likely to graduate from high school, pursue higher education, and earn a living wage, and they more likely to be unemployed, have a child out of wedlock, depend on public assistance, and be convicted of a crime.⁶

With all of these disturbing statistics, it is easy to lose track of what they mean on the personal level in the lives of countless children, young people, and their families. Not having one’s own parents and family is devastating to a child. Every child needs and deserves loving parents and a permanent family.

How the System Is Intended to Work

Federal and state policies have evolved over several decades into an array of services and procedures for endangered children, youth, and their families. A competent system would choose from these services case by case to meet the needs of particular children and families. However, foster care financing policies encourage states to rely excessively on

4. *Ibid.*

5. Wade F. Horn, testimony before the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, April 8, 2003, at <http://www.acf.hhs.gov/programs/olab/legislative/testimony/2003/adoptiontest.html> (February 23, 2011).

6. Mark E. Courtney, Amy Dworsky, JoAnn S. Lee, and Melissa Raap, *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Ages 23 and 24*, Chapin Hall at the University of Chicago, 2010, at http://www.chapinhall.org/sites/default/files/Midwest_Study_Age_23_24.pdf (February 23, 2011).

foster care, even when other services might benefit the child more. The array of services and procedures include:

- **Child protective services** to investigate abuse and neglect⁷ and to remove children to temporary state care when they are unsafe in their homes.
- **Family preservation services** to enable families in danger of harming their children to reform themselves and avoid having their children removed. These include individual and family counseling, parenting training, substance abuse treatment, mental health services, respite care, and youth mentoring and tutoring.
- **Foster care placements and foster parent recruitment and training** to provide temporary substitute “room and board” in a family setting. A caseworker visits monthly to monitor the care and help inform case planning.
- **Judicially supervised case planning and decision making**, according to timetables,⁸ for every child in public care. This procedure determines and implements the permanency plan that serves the child’s best interests.
- **Family reunification services**, like family preservation services, to enable parents and families to rehabilitate so that children can return safely and permanently home.
- **Adoptive placements and adoptive parent recruitment and training** for children whom a court has ruled cannot return safely home, whose parents’ rights must be terminated, and for whom new parents must be found.
- **Guardianship placements and guardian recruitment and training**, especially among the child’s relatives, for children for whom a judge

has ruled that neither reunification nor adoption is appropriate.

- **Post-placement services and adoption and guardianship assistance payments** to encourage prospective adoptive parents and guardians to choose permanency over foster care and to assist with the additional costs of caring for children with special needs.
- **Group homes, institutional care, and training in independent living** for youth who are expected to age out of foster care or who have behavioral or health issues requiring specialized expertise.

Federal law requires states to make “reasonable efforts” (1) to prevent removal of the child from his or her family and placement in foster care and (2) to reunite the child with family before terminating parental rights and placing the child for adoption or guardianship. However, the Adoption and Safe Families Act of 1997 (ASFA) established the child’s safety as the system’s “paramount concern” and authorized states to waive this requirement under “aggravated circumstances.”⁹

To increase timeliness and urgency in permanency decision making, ASFA also required state agencies and courts to make permanency plans for children within 12 months of removal and to initiate TPR proceedings if a child has been in foster care for 15 out of the previous 22 months (the “15/22 rule”). However, many agencies and courts routinely use loopholes to ignore these rules, causing painful delays for children. HHS-administered Child and Family Services Reviews (CFSRs) of state child welfare performance are intended to hold states accountable to outcome and process standards for safety, permanency, and well-being and to impose financial penalties

7. “The term ‘child abuse and neglect’ means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.” 42 U.S. Code § 5016g(2).
8. For detail on judicial hearings, timetables, and procedures for permanency planning, see Thomas C. Atwood and Virginia C. Ravenel, “Judicial Leadership to Ensure Sound Permanency Decisions for Children in Foster Care: Practical Guidelines for Juvenile and Family Courts,” National Council for Adoption *Adoption Advocate* No. 2, June 2, 2005, at <https://www.adoptioncouncil.org/publications/adoption-advocate-no2.html> (February 23, 2011).
9. “Aggravated circumstances” include the parent’s abandonment, torture, chronic abuse, or sexual abuse of the child; the parent’s murder or manslaughter of another child; or the involuntary termination of the parent’s parental rights with respect to a sibling of the child.

for failure. Even though every state failed the first round of CFSRs, only minimal penalties were imposed.

How the System Does Not Work

The reality of family and child services is far from ideal.

Inflexible Financing and Mixed Incentives. States, federal policy-makers, and advocates have long complained about the inflexibility of IV-E foster care financing, which encourages states to maintain children in foster care, because that is where the federal funding is. Assistant Secretary Wade F. Horn has testified, “[A] State that is successful in preventing unnecessary removals or in shortening lengths of foster care stays actually is apt to receive less Federal funding than a State where children remain in foster care for long periods of time.”¹⁰ Thus, states tend to overuse foster care because they receive federal matching funds for every qualifying child in care.

If IV-E funding were more flexible, states could reprioritize their spending toward approaches that might more effectively address endangered children’s problems, such as services to prevent the need to remove them from home in the first place, to rehabilitate families so children can return home more quickly, and to speed pathways to permanency through adoption and kinship guardianship. The federal incentivization of foster care over more effective, long-term solutions has been a major factor in turning foster care into a trap door, rather than a safety net, for many children.

Child Welfare Funding

In Fiscal Year 2010

	In Millions	Percent of Total Funding
Foster Care	\$4,681	56%
Permanency (Adoption and Guardianship)	\$2,557	30%
Child Protection and Family Protection/Reunification	\$778	9%
Research, Training, and Incentives	\$231	3%
Youth Services	\$185	2%

Source: Emilie Stoltzfus, “Child Welfare: Recent and Proposed Federal Funding,” Congressional Research Service Report for Congress, August 30, 2010.

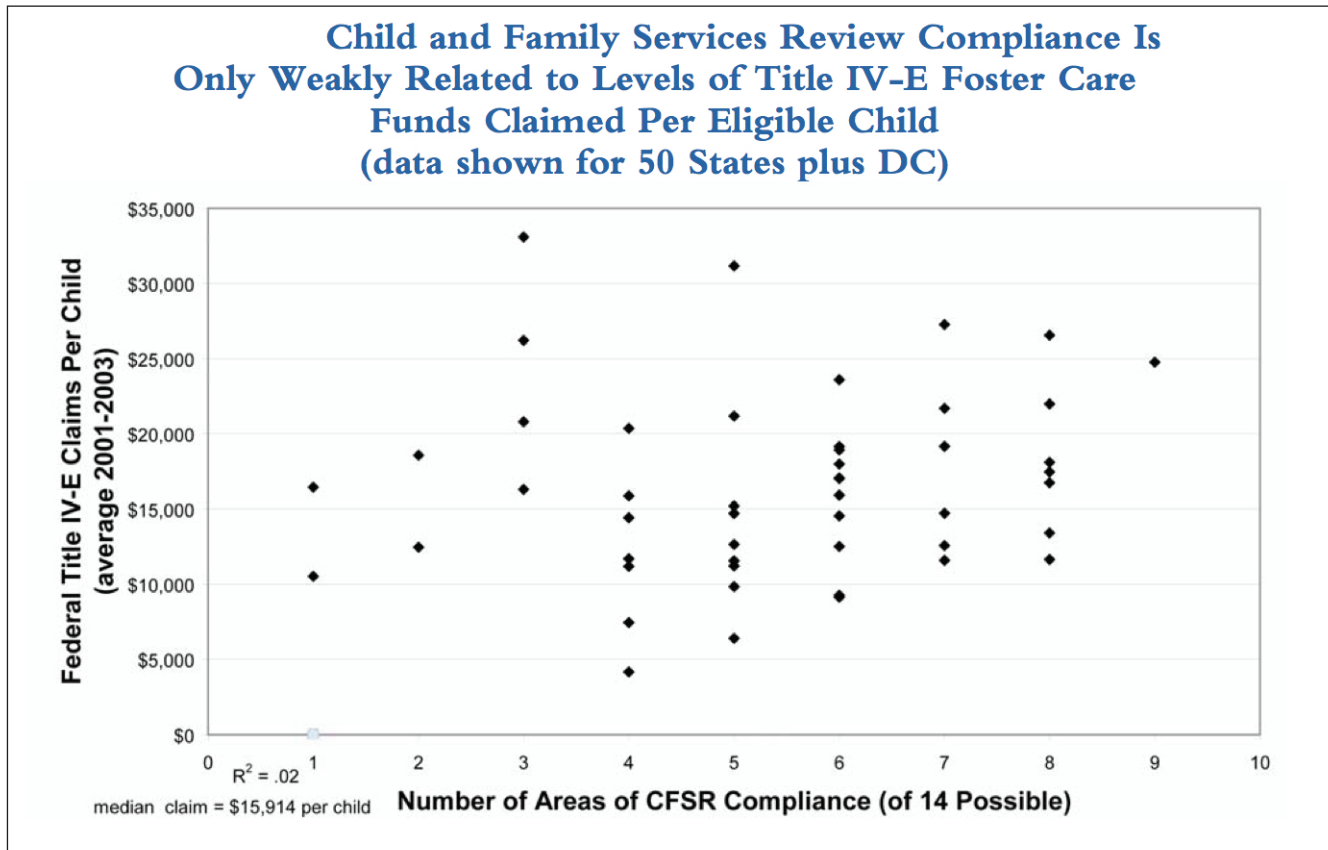
Chart 1 • B 2535  heritage.org

FY 2010 federal expenditures reflect the over-reliance on foster care caused by the Title IV-E funding. Foster care spending constituted 56 percent (\$4.7 billion) of the total federal spending on child welfare,¹¹ compared with 9 percent (\$778 million) for child and family services, including federal Title IV-B mandatory and discretionary spending, which states can use for services to prevent abuse and neglect, reduce foster care placements, preserve or reunify families, promote adoption, and provide post-adoption services. Services for youth received \$185 million (2 percent), and \$231 million (3 percent) was used for research, evaluation, training, demonstration, and incentives.

The \$2.5 billion (30 percent) for IV-E adoption assistance payments to families who adopt children out of foster care is the second largest piece of child

10. Wade F. Horn, “President’s Proposal for Improving Child Welfare,” testimony before the Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, June 12, 2003, at <http://www.hhs.gov/asl/testify/t030611.html> (February 23, 2011).
11. The Congressional Research Service reported that in FY 2007 the federal government paid \$4.4 billion of the total \$8.5 billion spent to provide foster care for Title IV-E-eligible children. States paid the balance of \$4.1 billion. The states pay the full cost for providing foster care for children who are not IV-E eligible, approximately 57 percent of all children in foster care. Committee on Ways and Means, U.S. House of Representatives, *Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means*, 2008, pp. 11-24 and 11-55, at <http://democrats.waysandmeans.house.gov/singlepages.aspx?NewsID=10490> (March 1, 2011). This publication is informally known as the Green Book.

No Correlation Between IV-E Foster Care Funding and Number of CFSR Standards



Source: Original graphic from U.S. Department of Health and Human Services, *ASPE Issue Brief*, August 2005, p. 14, Figure 5, at <http://aspe.hhs.gov/hsp/05/fc-financing-ib/ib.pdf> (March 11, 2011).

Figure 1 • B 2535 heritage.org

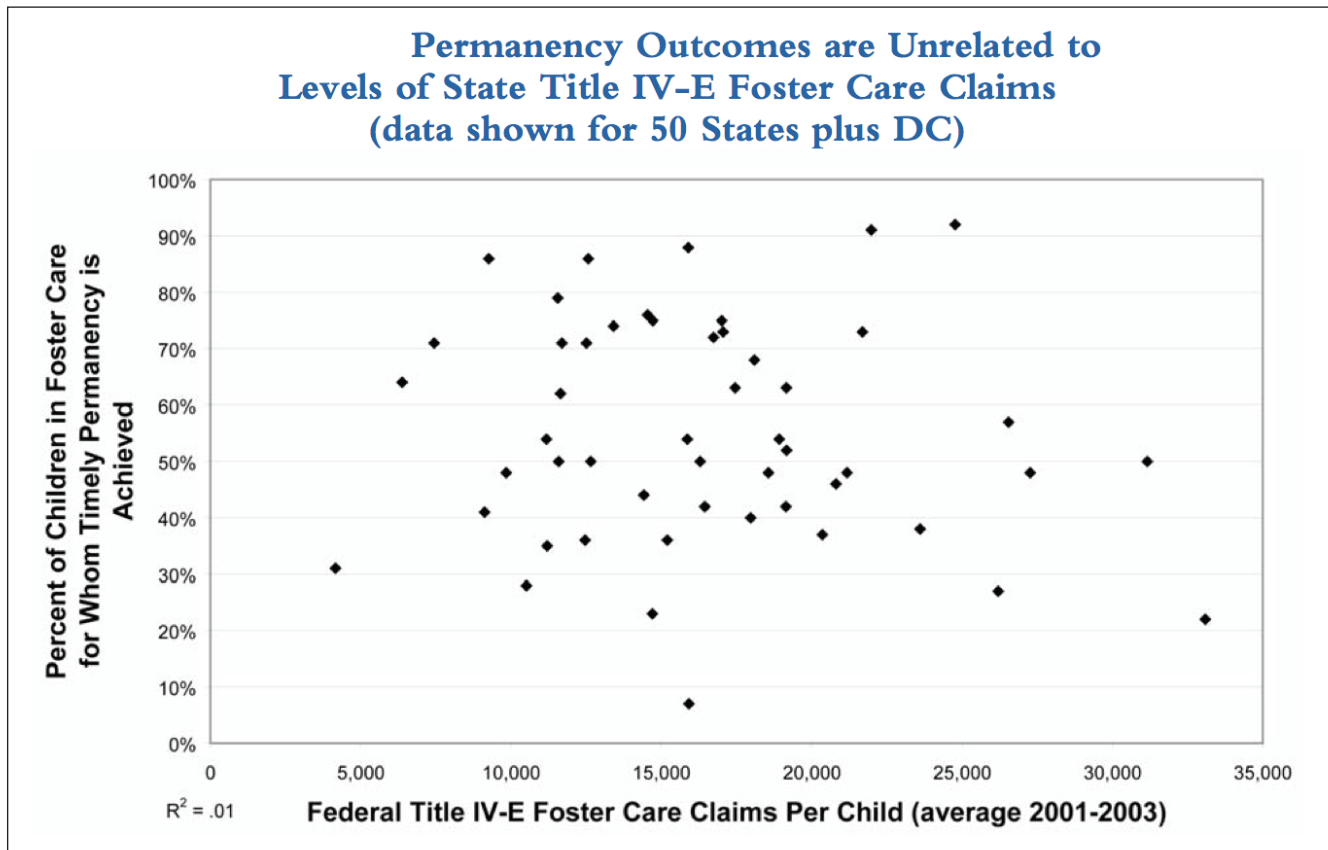
welfare funding.¹² Congress authorized these payments in 1980 to assist adoptive families providing for children with special needs and to reduce the disincentive for foster parents to adopt children in foster care. Previously, the entire foster care payment would be lost if they adopted. Following similar reasoning in 2008, Congress also made provision for kinship Guardianship Assistance payments for children who enter into legal guardian relationships with relatives. The cost for guardianship payments in 2010 was \$56 million, and that figure will likely

increase significantly in coming years. A judicial determination that guardianship is preferable to reunification and adoption in a particular child’s case is required before a guardianship placement may be made.

Also funded under Title IV-E, the Adoption Incentives program has helped to increase adoptions since ASFA. It gives states a financial bonus for each child adopted out of foster care above a baseline. In 1997, just 31,000 children were adopted out of foster care. Within a few years of the pro-

12. Emilie Stoltzfus, “Child Welfare: Recent and Proposed Federal Funding,” Congressional Research Service *Report for Congress*, August 30, 2010.

IV-E Funding Unrelated to States' Performance in Foster Care Claims



Source: Original graphic from U.S. Department of Health and Human Services, *ASPE Issue Brief*, August 2005, p. 15, Figure 6, at <http://aspe.hhs.gov/hsp/05/fc-financing-ib/lib.pdf> (March 11, 2011).

Figure 2 • B 2535 heritage.org

gram's implementation, the number had risen above 50,000 per year, exceeding 55,000 in 2009. Congress has since increased the bonuses to states for adoptions of older children and children with special needs.

Excessive Administrative Costs and Lack of Accountability. Federal funding of foster care is based on state IV-E claims, which varied greatly from FY 2001 to FY 2003. States claimed \$4,155 to \$33,091 per eligible child and \$1,190 to \$23,724

for administration and placement services. In 2007, states spent 1.8 times more federal funding on administering foster care programs, placement, and other technical expenses than on actually maintaining children in foster care.¹³ Among the states, this administration/maintenance ratio ranged from 0.3 in West Virginia to 6.2 in New Mexico.¹⁴ These variations are due partly to efforts by some states to maximize their claims for federal reimbursement and to other states losing eligibility for certain reim-

13. "Administration, placement, and other technical expenses" include case planning and management, pre-placement activities, eligibility determination, training, demonstration projects, Statewide Automated Child Welfare Information System, and "other" administration.

14. Committee on Ways and Means, *Background Material and Data*, pp. 11-46–11-48.

bursments, such as for administration, case planning and management, pre-placement activities, and training that are contracted out to private service providers. These figures include only the federal portion of foster care spending per child.

Presumably, states that receive higher ratios of federal funding should perform better for children, but that is not the case. According to HHS, “States Title IV-E claiming bears little relationship to service quality or outcomes...at each level of performance on the Child and Family Services Reviews.”¹⁵ For example, Figure 1 shows virtually no correlation between IV-E foster care funding and state compliance with CFSR standards. Similarly, Figure 2 shows that IV-E funding is unrelated to state performance in achieving timely permanency for children. This finding makes clear that the quality of state child and family services depends more on state policies and practices than on federal funding levels.

Inadequate and User-Unfriendly Efforts to Recruit and Retain Foster Parents. Americans have very positive attitudes about adoption. One in five has considered or is considering adopting a child out of foster care.¹⁶ There are 500 married-couple households for every child waiting to be adopted out of foster care. There are three places of worship for every waiting child, and every major faith calls on its believers to care for vulnerable children. The problem with parent recruitment is not a lack of parenting resources. Rather, the foster care

system is perceived as the DMV of child welfare, and not without reason.

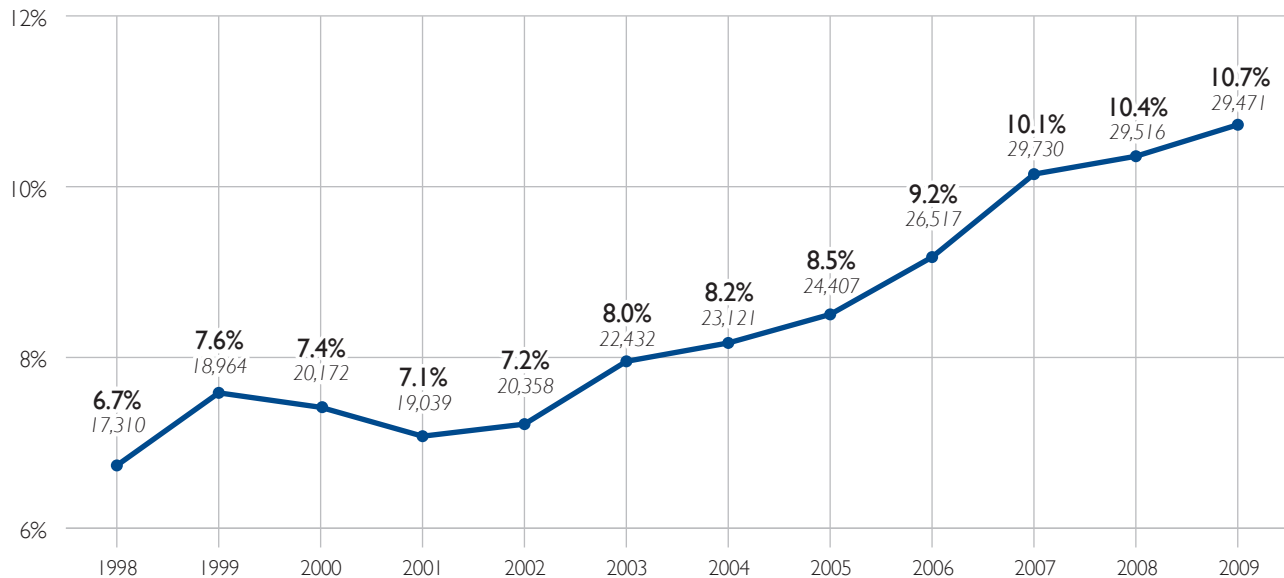
State agencies are notoriously unresponsive to inquiries from potential foster and adoptive parents, including the crucial first phone call. In a 2005 study, only one out of every 28 initial inquirers eventually adopted.¹⁷ Countless prospective parents and caregivers do not even make the first call because they believe they will face endless voice mail menus, unreturned phone calls, ridiculous intrusions, and red tape, such as requirements to change the widths of their doorways, install a sprinkler system, or obtain a letter from a social worker before allowing their foster child to have a sleepover in the next county. In a 2007 Harris Interactive survey, 53 percent of respondents felt that neglected and abused children are poorly or extremely poorly served by foster care.¹⁸

State agencies also have difficulty retaining foster parents. The 2007 Harris Interactive survey found that 75 percent of respondents who had foster-parented a child described the support from the child welfare system as ineffective and unsatisfactory either before or after placement. Nearly one-third found it ineffective and unsatisfactory both before and after placement.¹⁹ A three-state HHS survey found that 47 percent to 62 percent of foster parents exited foster care within one year of their first placement.²⁰ One of the main reasons for quitting was dissatisfaction with agency relationships.²¹ Another HHS study found that inordinate licensing and training

15. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, “How and Why the Current Funding Structure Fails to Meet the Needs of the Child Welfare Field,” *ASPE Issue Brief*, August 2005, pp. 13–15, at <http://aspe.hhs.gov/hsp/05/fc-financing-ib/ib.pdf> (February 23, 2011).
16. Harris Interactive, National Foster Care Adoption Attitudes Survey, Dave Thomas Foundation for Adoption, 2007.
17. Julie Boatright Wilson, Jeff Katz, and Rob Geen, “Listening to Parents: Overcoming Barriers to Adoption of Children from Foster Care,” Harvard University, John F. Kennedy School of Government, *Faculty Research Working Paper Series* No. RWP05–005, February 2005, pp. 5–6, at <http://web.hks.harvard.edu/publications/getFile.aspx?Id=154> (February 23, 2011).
18. Thomas C. Atwood and Marc Zappala, “Public Attitudes Regarding the Federal Child Welfare System’s Financing and Performance,” National Council for Adoption *Adoption Advocate* No. 3, April 28, 2007, p. 1, at <https://www.adoptioncouncil.org/publications/adoption-advocate-no3.html> (February 23, 2011).
19. *Ibid.*, p. 4.
20. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, “Understanding Foster Parenting: Using Administrative Data to Explore Retention,” January 2005, at <http://aspe.hhs.gov/hsp/05/foster-parenting/index.htm> (February 23, 2011).
21. Kathryn W. Rhodes, John G. Orme, and Cheryl Buehler, “A Comparison of Family Foster Parents Who Quit, Consider Quitting, and Plan to Continue Fostering,” *Social Service Review*, Vol. 75, No. 1 (March 2001), p. 86.

Youth in Foster Care Who Have Aged Out

Percentage and Number of Youth Who Age Out of Foster Care



Sources: U.S. Department of Health and Human Services, Administration for Children and Families, *Adoption and Foster Care Analysis and Reporting System Report* Nos. 10–17, at http://www.acf.hhs.gov/programs/cb/stats_research/index.htm (March 11, 2011).

Chart 2 • B 2535 heritage.org

requirements often created barriers to recruitment.²² For example, one couple had foster-parented more than 80 children over more than 20 years, but when they moved to a new state and offered their services, they were required to submit to extensive and time-consuming training and to live in the state for a year to be licensed. The state lost them as a resource family, even though their experience equipped them to deliver the training themselves.

The inadequate attention paid to parent recruitment and retention is further evident in the small amount of available resources that are spent on them, even though states can use federal matching funds to operate these programs. More than 25 per-

cent of the children in foster care are waiting to be adopted, but states spend only 1.3 percent of their eligible federal funds on this crucial strategy.²³

Delays in Permanency Decisions. State agencies and courts frequently fail to make timely permanency decisions, leaving children to languish in foster care limbo of endless delays and legal technicalities, making it even more difficult to place them as they grow older. State agencies and courts frequently ignore the ASFA rules that promote timely decision making, routinely using the “compelling reasons” exception to avoid TPR and only rarely citing the “aggravated circumstances” provision to expedite TPR.²⁴ Juvenile and family court judges have the key leadership

22. U.S. Department of Health and Human Services, Office of Inspector General, “Recruiting Foster Parents,” May 2002, at <http://oig.hhs.gov/oei/reports/oei-07-00-00600.pdf> (February 23, 2011).

23. Marc Zappala, “Parent Recruitment and Training: A Crucial, Neglected Child Welfare Strategy,” National Council for Adoption *Adoption Advocate* Vol. 6, September 2007, at <https://www.adoptioncouncil.org/publications/adoption-advocate-no6.html> (February 24, 2011).

24. Cassie Statuto Bevan, “Adoption and Safe Families Act: No Second Chances?” in Center for the Study of Social Policy and Urban Institute, *Intentions and Results: A Look Back at the Adoption and Safe Families Act*, December 2009, p. 55, at http://www.urban.org/UploadedPDF/1001351_safe_families_act.pdf (March 2, 2011).

responsibility in driving the permanency decision-making process, but many do not pursue the process with the urgency that children need. This lack of urgency can be attributed to a number of factors, including their inexperience, lack of expertise, and lack of interest in what they hope is only a temporary post. Some judges are ideologically opposed to the very idea of terminating parental rights or placing children with adoptive parents of a different race.

The Epidemic of Aging Out. The number of youth who age out of foster care without a family has increased every year since 1998, from 17,000 in 1998 to nearly 30,000 in 2009.²⁵ These numbers are unacceptable. Performance in serving youth varies greatly across the states. The percentage of children exiting foster care through “emancipation” ranges from 2 percent to nearly 25 percent of all exits. In about one-half of the states in 2005, 28 percent or more of the children emancipated from foster care were age 12 or younger when they entered foster care.²⁶ These failures are tragic both for the young people themselves and for those around them, who often suffer from the youths’ increased levels of harmful behaviors. Agencies and caseworkers give up too easily on youth in foster care and relegate them to “unadoptable” status.

Administration and Accountability Issues. The complex patchwork of funding sources, each with its own complicated claiming and reporting requirements, imposes costly administrative burdens on states and the federal government. Child and Family Services Reviews are appropriate in principle—they are intended to provide performance-based standards for states—but they are complex, multilevel, and micromanaging. Instead,

the accountability system should focus on a short list of strong, clear measures of child outcomes and allow the states to determine how best to meet those standards.²⁷ Clearer and simpler funding and accountability would free huge amounts of financial and management resources and improve child and family services performance.

Moreover, it is questionable how well the accountability system is working. After the elaborate review and performance improvement process, most states have failed to meet most benchmarks, but only a few relatively small penalties have been imposed. To be more effective, standards must be enforced with meaningful consequences. In addition to state agencies, state courts are even less accountable because most state courts do not have performance measures and, for those that do, the measures are usually self-imposed.²⁸ State courts are only indirectly affected by the Performance Improvement Plans imposed by the CFSRs when a state agency falls short of meeting benchmarks.

Another CFSR weakness is that the measures are so minutely detailed. Consequently, states tend to respond only to what is measured and overlook other important performance issues that are not measured. For example, the CFSR standard for parent licensing, recruitment, and retention focuses mainly on ensuring that parents and homes are licensed and meet certain standards. Little attention is paid to ensuring that the system is responsive to prospective parents and provides parents with needed assistance and training. This focus on requirements for parents and prospective parents, while neglecting responsiveness to them, is a major cause of the system’s user-unfriendly performance and reputation.

25. U.S. Department of Health and Human Services, Administration for Children and Families, “The AFCARS Report,” Nos. 10–17, at http://www.acf.hhs.gov/programs/cb/stats_research/ (September 27, 2010).

26. U.S. Department of Health and Human Services, Administration for Children and Families, *Child Welfare Outcomes 2002–2005*, pp. II.1–II.6, at <http://www.acf.hhs.gov/programs/cb/pubs/cwo05/index.htm> (March 15, 2010).

27. The CFSRs are very specific in telling states how to do their jobs. The first round of CFSRs measured seven outcomes, seven system factors, and 45 performance indicators. The second round is different and equally complex. The State Data Profile for CFSR reporting is 16 pages long with 100 rows of data. See Tom McDonald and Mark F. Testa, “Outcomes Monitoring in Child Welfare,” in Mark F. Testa and John Poertner, eds., *Fostering Accountability: Using Evidence to Guide and Improve Child Welfare Policy* (New York: Oxford University Press, 2010), p. 125.

28. Thomas C. Atwood and Virginia Ravenel, “Performance Measures for Courts: The Next Step in Foster Care Reform,” *National Council for Adoption Advocate* Vol. 1, June 2, 2005, at <https://www.adoptioncouncil.org/publications/adoption-advocate-no1.html> (February 24, 2011).

Ideological Obstacles to Optimal Placements

Regrettably, ideological barriers complicate or prevent the placement of children in caring families.

Family Preservation. Some advocates, judges, administrators, and social workers are ideologically opposed to adoption, believing that the biological family should almost always be preserved. One youth who aged out said,

[M]any family courts prefer reunification over adoption, even when there is no real family to preserve. In my case, after seven years and 29 placements, I found a foster family who wanted to adopt me, but the state would not terminate the parental rights of my abusive, mentally ill mother. As a result, I continued to drift from one temporary placement to the next, and was never adopted.²⁹

Enactment of ASFA's pro-adoption policies has reduced the magnitude of this problem, but it still exists and creates invisible obstacles to adoption.

Racial Preservation. The Multiethnic Placement Act of 1994 (MEPA) and the 1996 amendments prohibit delaying or denying placement on the basis of race. However, some advocates and decision makers continue to oppose transracial adoption, believing that transracial placements are unsound for both the race and the child. Standing for "preserving families of African Ancestry," the National Association of Black Social Workers has long opposed transracial adoption of Black children, despite the proven benefits to children. The Indian Child Welfare Act of 1978 (ICWA) also gives group "access" higher priority than the child's best interests by uniquely allowing tribes to veto the adoption of a Native American child, even if the child has only a faint biological connection and little or no relationship with the tribe. The

child's access to loving parents and a permanent family should matter most.

Bias Against Faith-Based Outreach. Caring people in faith-based communities have many resources to offer, whether as foster parents, adoptive parents, guardians, mentors, respite caregivers, financial donors, or volunteers in some other capacity. However, many state agencies and workers are reluctant to work with faith-based communities, fearing proselytization and misunderstandings about church-state entanglements.

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Sexual Orientation Nondiscrimination Requirements. Some would require sexual orientation nondiscrimination in foster and adoptive placements,³⁰ thereby forcing most faith-based agencies to choose between their religious beliefs and continuing services. Catholic Charities in Boston, San Francisco, the District of Columbia, and Great Britain have ceased to provide adoption services rather than violate the church's teaching by obeying such laws. Not only do these laws violate religious liberty, they harm children because they force high-quality, compassionate social service agencies to shut down. If all faith-based agencies closed due to such laws, the adoption and child welfare field would be decimated, depriving thousands of children growing up in families.

Bias Against Infant Adoption. Infant adoption is already quite rare. Only 1.6 percent of children born to unmarried women are placed for adoption privately,³¹ and only 2 percent of children adopted out of foster care in 2009 were less than one year

29. Jeff Lawson, "Caring for Foster Care," *The Washington Times*, September 24, 2006, at <http://www.washingtontimes.com/news/2006/sep/24/20060924-085114-3557r/> (March 18, 2010).

30. For example, see Every Child Deserves a Family Act, H.R. 3827, 111th Cong.

31. Paul Placek, "National Adoption Data," in Thomas C. Atwood, ed., *Adoption Factbook IV* (Sterling, Va.: PMR Printing Company, 2007), p. 10, at <https://www.adoptioncouncil.org/images/stories/documents/adoptionfactbookiv1.pdf> (February 24, 2011).

old.³² A fairly common attitude in the child welfare system is that infant adoption should almost never happen. Instead, the government should provide adequate resources for single mothers so that they do not need to place their children for adoption. For example, President Obama's FY 2011 budget proposed to defund the \$10-million Infant Adoption Awareness program, virtually the only federal program that supports private infant adoption.³³ Yet in his 2010 budget, he proposed \$124 million for a new home visiting program for single women with young children and those expecting children.³⁴ The reality is that some single women and teens with unplanned pregnancies do not have the maturity or will to parent. When women who are not ready to parent default to parenting, some of their children will eventually be placed in foster care due to neglect or abuse.

What States Should Do

States can and should improve their foster care services.

Delivering Permanency to Children More Quickly. Efforts to achieve permanency—whether through reunification, adoption, or guardianship—should begin as soon as the child enters foster care. States should streamline the process and speed up permanency by:

- Tightening permanency hearing frequency beyond the federal 12-month requirement;
- Complying with ASFA's 15/22 rule requiring initiation of TPR;
- Using ASFA's "aggravated circumstances" provision to bypass reunification efforts when appropriate;
- Using concurrent planning. This means beginning to evaluate alternatives to reunification when the child enters foster care, including identifying and preparing prospective adoptive parents, rather than waiting until TPR;

- Dual licensing (simultaneously licensing parents for both adoption and foster parenting);
- Simplifying second adoptions and sibling adoptions for already approved adoptive parents; and
- Working with private social service agencies.

Prioritizing the Recruitment, Training, and Retention of Adoptive and Foster Parents. States can prioritize parent recruitment, training, and retention by:

- Creating appropriate management-level positions in the state social service agency to oversee such efforts. Making specific managers responsible should provide the necessary leadership and accountability;
- Auditing the system that processes prospective parents and trains and communicates with parents. The audit results should then be used to make the system more user-friendly;
- Contracting with private agencies to assist with recruitment and training;
- Reaching out to faith-based communities for parents and caregivers;
- Providing foster and adoptive parents with detailed information about the child's medical, educational, behavioral, and placement history;
- Notifying the child's foster parents about legal proceedings and inviting their participation;
- Eliminating unnecessary requirements that alienate parents and prospective parents;
- Complying with MEPA by not denying or delaying placements based on race and by diligently recruiting prospective parents of all races and ethnicities; and
- Incentivizing and working with employers to promote employee involvement in serving children in foster care.

32. U.S. Department of Health and Human Services, Administration for Children and Families, "The AFCARS Report," No. 17, July 2010, at http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report17.htm (September 27, 2010).

33. U.S. Department of Health and Human Services, Administration for Children and Families, *Justification of Estimates for Appropriation Committees, Fiscal Year 2011*, p. 133, at <http://www.acf.hhs.gov/programs/olab/budget/2011/CFS.pdf> (May 24, 2010).

34. Emilie Stoltzfus, "Child Welfare," p. 2.

Recruitment through Faith-Based Networks.

Faith-based communities and agencies provide established networks of sympathetic parent and caregiver prospects. As stated previously, there are three places of worship for each child waiting to be adopted out of foster care, and all of America's faiths call on their believers to care for orphans. Finding one family out of every three places of worship to adopt one waiting child is an achievable goal.

Many states are leery of and in some cases biased against working with faith-based communities, partly due to misconceptions about constitutional church-state issues. Yet in reality there are no such issues. Even HHS has endorsed this approach to recruitment. For example, HHS has requested proposals for demonstration projects on faith-based partnerships, provided funding information and other resources on its "The Faith-based and Community Initiative" Web page,³⁵ and published "Capacity Building Toolkits for Faith-Based and Community Organizations" on how faith-based groups can work with the federal government.³⁶

Faith-based love for the orphan is the inspiration for the Wait No More initiative launched in 2008 by Focus on the Family. Focus on the Family President Jim Daly was himself orphaned in fourth grade and spent time in foster care. Wait No More convenes leaders from state government, churches, and private (often faith-based) adoption agencies in all-day events with prospective adoptive parents recruited from Christian churches. The events present biblical teaching about ministering to orphans, perspectives from people with personal adoption experiences, information about the adoption process, and the opportunity to begin the process that day with agency representatives on site.

Wait No More has delivered unprecedented rates of success in finding families for waiting children.

The initiative held six events in five states (Colorado, Florida, California, Missouri, and Ohio), with about 4,200 people in attendance. Amazingly, 945 families initiated the process of adoption out of foster care at the events. According to Sharen Ford, manager of permanency services for the Colorado Department of Human Services, Wait No More has reduced the number of waiting children in Colorado by more than half.³⁷ States should enthusiastically pursue opportunities for parent recruitment through faith-based communities.

Collaborating with Private Agencies. States can improve the user-friendliness of the public system by contracting with private agencies to process inquiries and to recruit and train parents. Prospective parents are more comfortable and confident working through private agencies that can represent them when dealing with the cumbersome and nonresponsive public system. Such efforts can develop public-private agency working relationships that facilitate all aspects of the child welfare system.

Working with the Business Community. States should work with businesses to recruit parents, mentors, and caregivers; promote adoption-friendly personnel policies; and employ youth in foster care. States should also consider tax policies and public relations programs to incentivize and reward corporations for such programs.

Promoting Court Improvement and Accountability. Juvenile and family court judges should exercise their crucial leadership role in permanency decision making and demand more urgency and timeliness from state agencies and court administrators. States should tighten permanency hearing schedules beyond the federal requirements, which should be viewed as a bare minimum. They should also establish performance-based measures to hold juvenile and

35. U.S. Department of Health and Human Services, Administration for Children and Families, "The Faith-Based and Community Initiative," Web page, at <http://www.acf.hhs.gov/programs/fbci/> (May 22, 2010).

36. U.S. Department of Health and Human Services, Administration for Children and Families, "Capacity Building Toolkits for Faith-Based and Community Organizations," at <http://www.acf.hhs.gov/programs/ocs/ccf/resources/toolkit.html> (May 22, 2010).

37. Electa Draper, "Adoption Initiative Halves Numbers of Kids Needing Families," *The Denver Post*, March 5, 2010, at http://www.denverpost.com/ci_14516591 (March 22, 2010).

family courts accountable³⁸ and publish reports of courts' performance to empower the media and public to hold the courts accountable.

Making Extra Efforts to Prevent Aging Out.

Throughout the courts, social service system, and state policy leadership, states should promote a positive attitude that refuses to despair about foster youths' prospects for permanency, including adoption. State agencies should engage in intensive case-work to strengthen any healthy connections between the youth and adults and create the best possible youth-specific permanency plan. States should consider providing aged-out youth with vouchers to attend state colleges. States should also set numerical goals for reducing the number of youth who age out of the system over the course of five years and release the annual performance reports so that progress can be tracked and reviewed in the sunshine of public scrutiny.

Guarding Adoption While Increasing Kinship Guardianships. Because adoption provides children with legally permanent parents, it is generally preferable to guardianship. Therefore, states should establish the guardianship assistance payments not to exceed the value of adoption assistance payments. In 2008, Congress authorized states to use federal matching funds for such payments. State agencies should strictly comply with the requirement to obtain court approval ruling out reunification and adoption before making a guardianship placement for a child. Adoption assistance payments are only for children with special needs, but Guardianship Assistance is not limited to children with special needs. States should ensure that their payment plans do not incentivize prospective parents to choose guardianship over adoption.

What Congress Should Do

Although foster care is primarily a state responsibility, Congress should change federal laws and

policies to better meet the needs of children entering foster care.

Consolidating Funding. Family reunification is the default case goal for children entering foster care. Until the agency and court determine that the child in foster care cannot be returned home safely and that an alternative permanency plan must be made, foster care is part of the child protection and family preservation and reunification program. Yet the funding of prevention, preservation, and reunification is a dysfunctional patchwork. Foster care consumes the vast majority of the funds because it is an open-ended, per capita formula for the states, while the rest of the funding is capped programmatically.

Adding to the patchwork will not solve the problems. Congress should give states the flexibility they need by consolidating Title IV-E funding for Foster Care Maintenance, Administration, and Training with funding for Title IV-B Subparts 1 and 2, which covers family support, preservation, and reunification services as well as adoption support and promotion. With the consolidation, states would no longer be required to establish a child's IV-E eligibility to receive the federal funds, thereby saving considerable administrative time and money. States could also be allowed to use Temporary Assistance for Needy Families (TANF) contingency funds if a severe foster care crisis exceeds existing capacity.³⁹

Congress should maintain IV-E Adoption Assistance and Guardianship Assistance payments to avoid creating disincentives to these healthy permanency options when family reunification is not in the child's best interests. The Adoption Incentives and Adoption Opportunities programs should also be left intact to continue promoting adoption.

Congress should not reward states for prior successes in winning extravagant per capita foster care funding from HHS, particularly states that spent it on administrative costs that do not appreciably benefit the children in care. In determining state fund-

38. Standards to measure court performance should include ASFA's 15/22 rule, average length of time between review hearings, percentage of review hearings that are postponed, numbers of placements children experience while in foster care, length of time in foster care, and length of time from entry into foster care until TPR. See Atwood and Ravenel, "Judicial Leadership to Ensure Sound Permanency Decisions for Children in Foster Care."

39. Allowing states to tap into TANF contingency funds under emergency conditions was proposed in President Bush's Child Welfare Program Option and in the Child Safety and Family Enhancement (Child SAFE) Act in the 108th Congress.

ing, Congress should consider various factors that can increase particular states' relative costs. However, in light of the current federal budget crisis and the extraordinary range of federal awards, Congress should reduce funding for states with excessive administrative expenses. Further, funding should not fluctuate according to caseload size, which creates a perverse incentive for states to increase their caseloads continually.

States and advocates argue strongly for more flexibility in federal funding. Many also argue for simply *more* federal funding. However, state claims for IV-E benefits vary widely, and there is little correlation between IV-E funding and CFSR performance. Further, some state bureaucracies have been claiming excessive administrative costs. State policies and practices, not the amount of federal foster care funding, make the most difference in the performance of child and family services.

Streamlining Child Welfare Benchmarks and Strengthening Enforcement. More micromanaging from Washington will not solve the problems with the child welfare system. A massive federal bureaucracy is simply incapable of establishing a system of minutely detailed measures of child and family services and efficiently and effectively directing performance across the country. HHS attempts to do so have added onerous paperwork and human resource costs and predictably resulted in crucial gaps in the system nationwide, such as in parent recruitment and retention. CFSR standards should focus on results and give states the flexibility to decide how best to meet those standards.

While centralized micromanagement has not produced positive results, the state child welfare bureaucracies need accountability. State Performance Improvement Plans (PIPs) to address CFSR failures have been effective and should be continued, but directed toward streamlined, outcome-based benchmarks, which can provide more effective accountability for the taxpayer and more positive results for vulnerable children. Congress should streamline the benchmarks that are crucial for providing safety, permanency, and well-being for abused and neglected children and should strictly require HHS to hold states accountable

and impose meaningful financial penalties for not meeting these standards, which address:

- Length of time between entry into care and permanent placement;
- Average length of time in foster care;
- Maltreatment occurrence before entering foster care, while in foster care, and after permanent placement out of foster care;
- Participation in education by children in foster care;
- Provision of health and mental health care;
- Recruitment and retention effectiveness; and
- Number of youth who age out.

Policymakers should also increase the frequency of the reviews and PIP revisions from every four years to every two years. Given the weakness in parent recruitment and retention, Congress should also direct HHS to annually measure, rank, and publish states' performance in this area for the next five years.

Reducing Abuse of TPR Exceptions. Congress should hold hearings on state abuses of ASFA's 15/22 rule and exceptions to TPR, which are frequently claimed to justify painful and unnecessary permanency delays for children and youth. In particular, Congress should tighten the language of the "compelling reasons" exception, which is being exploited as a loophole for not terminating parental rights, thereby trapping adoptable children in foster care. Congress should also examine states' failure to use the "aggravated circumstances" exception to the requirement to prefer reunification over adoption. Rather than the present ASFA policy of simply authorizing states to use this exception, Congress should make this language more directive.

Maintaining the Preference for Adoption over Guardianship. The Fostering Connections to Success and Increasing Adoptions Act of 2008 authorized Guardianship Assistance payments comparable to Foster Care Maintenance payments and Adoption Assistance payments. The new law maintains the existing preference for reunification and adoption as the best permanency options for a child by requiring that courts specifically rule them out before allowing guardianship. If the new

guardianship payments are properly implemented, an increase in the number of guardianships should not reduce the proportion of adoptions. Rather, increased guardianships should primarily be reflected in decreases in the number of children and youth in foster care and of those with outcomes of long-term foster care and aging out. Congress should monitor implementation of the 2008 act to ensure that the preference for adoption over guardianship is maintained and to eliminate the federal share of guardianship payments to any states that do not maintain it.

Another potential threat to the child's interest in joining a permanent family through adoption is guardianship incentives, which some advocates also sought to create in 2008. Adoption is generally a better permanency option for children because it confers the full legal and moral rights of family membership. Equally incentivizing states for adoption and guardianship in this way would allow state agencies to "settle for" or even prefer guardianship for some children who could be adopted. Congress should reject any attempt to create a guardianship incentives program for states.

Maintaining MEPA's Interethnic Adoption Provisions and Reforming the ICWA. In 2008, opponents of transracial adoption advocated rescinding MEPA's interethnic adoption provisions that prohibit delaying or denying a child's placement on the basis of race. Pro-adoption policymakers must be diligent in protecting children's opportunity for a family against such bias. Congress should also reform the ICWA to place the parentless Native American child's right to a family through adoption above the tribe's claim to control his placement, which tribes sometimes assert even when the child's genetic and relational connections to the tribe are minimal.

Protecting the Religious Liberty of Faith-Based Child Placement Agencies. Requiring sexual orientation nondiscrimination in child placements would force many of the best agencies

to choose between violating their consciences and discontinuing services. Several Catholic Charities have already been forced to close, and such policies would force many more agencies out of service, denying thousands of children the opportunity to be adopted. Congress should protect the rights of faith-based organizations to provide adoption, foster care, and child and family services without fear of discrimination because of their religious beliefs.⁴⁰

Requiring Adoption Information and Awareness in Federal Clinics and Maternity Homes. Congress should require federally funded health centers and family planning clinics to provide adoption information and referrals to women with unplanned pregnancies. The Runaway and Homeless Youth Act should be amended to allow federally funded maternity homes to use the funding to teach about adoption in addition to parenting.

Making Improvements to the Adoption Tax Credit. The 2001 tax cuts raised the adoption tax credit, first enacted in 1996, from \$6,000 for adoptions of children with special needs and \$5,000 for all others to \$10,000 for all adoptions. The tax reforms also indexed the credit for inflation and increased the income phase-out provision from \$75,000 to \$150,000. By 2010, the maximum amount of the credit had reached \$12,170. The 2001 tax reform bill created a rule for adoptions of children with special needs (mostly children adopted from foster care), exempting adoptive parents from having to prove qualified adoption expenses in order to receive the full adoption tax credit.⁴¹

Along with other tax reforms, the 2001 adoption tax credit improvements were scheduled to expire at the end of 2010. However, the 2010 federal health care package increased the credit to \$13,170, made it refundable regardless of income tax liability, and extended the revised inflation-adjusted credit through the end of 2011, at which time the credit is scheduled to revert to pre-2001 levels. The 2010 change went beyond the earlier reforms, making

40. Congress can do so by explicitly stating in statute that states may contract with faith-based organizations to provide these services, using language similar to provisions that protect faith-based organizations that receive federal funds through other programs, such as TANF.

41. Children with special needs make up 86 percent of adoptions out of foster care. Committee on Ways and Means, *Background Material and Data*, p. 11-80.

it refundable for all adoptions, including private international and domestic adoptions, regardless of tax liability.

By making adoption more affordable, the adoption tax credit has enabled many thousands of children to have families who would not otherwise have them. It has also reduced federal and state outlays for foster care payments. Congress should make permanent the adoption tax credit's current value, the annual inflation adjustment, the inflation adjustment of the increased income phase-out levels, and the exemption from proving expenses for adoptions of children with special needs.

Conclusion

The endangerment of children by the very social institution that is supposed to be their greatest nurturer and protector—the family—does not lend itself to easy policy solutions. As guardian of the innocent from violence, government has a role to play in protecting children endangered in their families. When the government must remove children from their homes for their protection, it has a social responsibility to restore them to their family or provide them with a new family in a safe and timely manner.

Many children have experienced safety, permanency, and well-being through the foster care system. Many dedicated foster parents, social workers, and agency managers—both public and private—work hard to help children and families overcome neglect, abuse, and their causes and effects. As policymakers and child welfare professionals have learned from experience, they have made positive reforms to policies and practices.

Yet many thousands of children and youth still suffer because of foster care and child welfare policies. Foster care is yet another example of the incapacity of a large, complex, central bureaucracy to direct social programs in myriad and diverse localities across the country. However, the successful welfare reform of 1996 offers a model for much needed reforms in child welfare. For the sake of these precious children and youth, the champions of liberty and the family should take up this banner of reform to guarantee the most basic right of the child—loving parents and a family of his or her own.

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