

Golden Gate University School of Law
GGU Law Digital Commons

GGU Law Review Blog

Student Scholarship

6-7-2020

Children In Foster Care: The Odds Are Against Them

Shawna Doughman

Follow this and additional works at: https://digitalcommons.law.ggu.edu/ggu_law_review_blog

 Part of the [Family Law Commons](#), and the [Juvenile Law Commons](#)

GGU Law Review Blog



🕒 JUNE 7, 2020 💬 NO COMMENTS

Children In Foster Care: The Odds Are Against Them

Most child welfare reports that lead to removal of children from their homes are filed for **neglect** rather than abuse. Often, their parents want to take care of them, but are failing for one reason, or for many. Nonetheless, the lion's share of the \$30 billion annual budget of state and federal child welfare funding goes overwhelmingly to foster care and adoption services which remove the children from their parents, instead of to helping those families care for their own children.



Photo by [Chinh Le Duc](#) on [Unsplash](#).

THE STATE DOES NOT MAKE A BETTER PARENT

Evidence abounds to show that foster children are not thriving as a result of this system. More foster children are diagnosed with post-traumatic stress disorder ("PTSD") than are veterans returning from **war**. Among foster children in Oregon, only 35 percent graduate

from high school, compared to 77 percent of their peers. Every year, more than **4,000** young adults who have aged out of foster care, move out of their foster homes and end up on the streets. In some parts of the country, up to 40 percent of young adults previously in foster care are homeless within **four years**. In 2018, more than **690,000** children spent some amount of time in foster care where they will stay, on average, for over two years. California has the highest incidences of human trafficking, and **60%** of trafficked individuals share a past experience in foster care. A **study** conducted with twelve states' prisons discovered that among those who responded to the questionnaire, one in four prisoners grew up in foster care.



Dominic Williamson said he was in 80 different foster homes from ages 3 to 14. ([Photo Source](#)).

THE PROCESS

The government is beginning to take notice of the data regarding the dangers of foster care and the benefits of keeping children with their families. When the county is called in, after reports of neglect or abuse, it tries to determine the safety of the child and the home. If the home situation is determined to be too dangerous, the child is usually taken to a relative's home or the home of an approved foster family and a report must be filed in the initial **48 hours**.

When a child is taken away from their home, the process continues with a court appearance by the parents before a child welfare judge. There are lawyers representing each parent, a lawyer representing the child or children, and a lawyer to represent the government agency's view on what should happen in the best interests of the child.

Photo by [Milad B. Fakurian](#) on [Unsplash](#).

If the judge finds the parents unable to properly care for their child, then foster care or relative placement will continue. Each time the parties meet with the judge, the family situation and updates are discussed with the judge who will decide the care of the child for the duration of court proceedings. There are ongoing court appearances for the family until the judge makes a final determination regarding the child. The final determination typically means that either the child is returned to their family or the child remains in a foster home or group care situation and is available for adoption.

THERE'S NO PLACE LIKE HOME

Children fare **better** with their own parents or relatives than in foster care. So, it makes sense to work within the confines of this reality. If parents can be supported to be able to care for their own children, the children are spared the **trauma** of removal and the state can move on to more desperate cases, with foster care dollars and accommodations saved for those who cannot return to their families.

Martin Guggenheim, via [PBS.org](https://www.pbs.org). New York University (“NYU”) Law Professor, Martin Guggenheim, has begun a movement regarding child welfare. His [study](#), undertaken from 2007 to 2014, studied 9,582 families whose child welfare cases were represented by an interdisciplinary office rather than independent panel attorneys. Professor Guggenheim found “[staggering](#)” results. When the families were represented by an interdisciplinary team, children spent, on average, 118 fewer days in foster care (i.e. almost four months). The study also included measures to show that the children were placed in no increased danger.

In *Children and Youth Services Review*, Guggenheim and his co-authors published the study under the title “[Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare](#).” Their findings anticipate a savings of \$40 million in New York City, if this model is

implemented, leading to a savings of dollars and of families. Specifically, the model is designed for better parental access to improve education, adherence to deadlines and requirements from the judge, access to lawyers who follow a case more closely than was typical from independent panel attorneys, and to social workers and parent advocates who can help parents navigate the system. If implemented, this model has the potential to reduce the time spent away from families, the time spent in foster care, and the burden on the broken system.

Photo by [Richard Sagredo](#) on [Unsplash](#).

FAMILY FIRST PREVENTION SERVICES ACT

As part of the Bipartisan Budget Act, the [Family First Prevention Services Act](#) (the “Act”) was signed into law on February 9, 2018. The Act acknowledges the problems inherent in foster care, as well as the desired outcome of better parenting which results in intact families. Senator Rich Wyden, Democrat of Oregon, and Senator Orrin Hatch, Republican of Utah, drafted the bill in an effort to [reform child welfare](#) together and worked on it for almost three years until it was defeated in 2016. The hard work of many, including endorsements from over 500 child welfare advocacy organizations, led to the bill being reintroduced and ultimately passing in 2018.

Foster care agencies, county child welfare departments, group homes, and others who stand to lose major budget dollars have been vehemently [opposed](#) to the Act. Currently, a majority of states have filed for an extension before required implementation, but the Act is slowly marching forward. Specifically, the Act provides for prevention services which include mental health and substance abuse treatment, training for in-home parenting, and family therapy. The Act emphasizes greater support for relative caregivers over foster care and group homes, and allows for special treatment options for children with special emotional and behavioral disturbances. Finally, the Act allows states to offer these services to individuals aging out of the foster care system until they are 23 years of age.

NOW WE’RE GETTING SOMEWHERE

Considering the study performed by Guggenheim and his colleagues, the agencies opening up around the country implementing these groundbreaking new strategies, and provisions in the Act to keep families together, it feels like we are on a frontier for actual, meaningful change for a historically broken system. When parents can receive resources that will enable them to better care for their children, the burden on the system will be alleviated. As these changes occur, people in a position to see children who are in need will have more faith in a system designed to

actually help families rather than penalize them, to the ultimate punishment of those very children who are most in need.

Share this:



Like this:

Loading...

Shawna Doughman

In this area you can display your biographic info. Just visit [Users > Your Profile > Biographic info](#)



Leave a Reply

This site uses Akismet to reduce spam. [Learn how your comment data is processed.](#)

Search blog

 

Archive

 