

Welfare Reform and Adoption Policy: Unfinished Business

by
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The Problem

The stated intent of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), commonly referred to as welfare reform, was to decrease reliance on welfare and increase the economic independence of poor families. However, welfare reform and changes in adoption policies have made it more difficult for families to reunite. This is particularly the case when a parent has substance abuse or other health challenges.

Over half a million children and adolescents are placed in some form of out-of-home care resulting in families and children's exposure to the child welfare system. This number has been increasing in recent years, apparently as a result of cuts in federal funds for preventive services, in addition to dramatic increases in parental substance abuse, homelessness, and unemployment, especially among racial and ethnic minorities. Studies have also shown that the field of child welfare has been hindered by federal and state funding policies that have rewarded the "wrong" program emphases, for example completing child abuse investigations rather than preventing the need for new ones. Adequate support for authentic preventive programs has been largely lacking at the federal and state governmental levels.

The Adoption and Safe Families Act (ASFA), the third and most recent major change in federal policy related to foster care, was implemented to promote safety, permanence and well-being for children. It also was intended to reduce barriers that inhibit the termination of parental rights (TPR) by creating a stable home for children, and by making such decisions "without delay." Support for families and adoption promotion are key components of the latter policy. Although these two pieces of legislation were created to address the changing needs of child welfare, research has shown that the good intentions of the aforementioned legislation have created unfair challenges and barriers to successful reunification for the children and families who are being served by Child Protective Services (CPS).

The PRWORA legislation replaced the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance for Needy Families (TANF) program, eliminated entitlements to cash benefits, and imposed a number of limitations on benefits, including a five-year time limit, work requirements, and benefit reductions or terminations for noncompliance. PRWORA mandates that families receiving welfare benefits have work requirements of twentyfour months and receive welfare benefits for no more than sixty months over a lifetime, limiting access to cash assistance and creating challenges for families and for case workers. Under PRWORA, states have been given significant discretion in designing and implementing welfare policies. They vary in the generosity of their cash benefits, the percentage of their poor who receive assistance, time limits, sanctioning policies, quality of support services, and earning decisions. States with the largest African American populations and the highest rates of welfare use by African Americans tend to adopt the most restrictive rules and provide the least generous welfare benefits and support services.

Before passing ASFA, Congress convened hearings on barriers to adoption, which highlighted the need to move children expeditiously out of foster care and into an adoptive family. The enactment of ASFA placed greater emphasis on permanency planning and adoption instead of family preservation. There is a complication: ASFA timelines are challenging because permanency decisions about children in placement must be made within twelve months and TPR is sought after children are in placement fifteen out of 22 months.

Consequently, parents with substance abuse and mental health problems may not be provided with sufficient time and resources needed for successful reunification with their children. Another complication is that ASFA provides financial incentives for agencies that move children into adoptive homes and allocates resources for technical assistance used to expedite adoption which can inadvertently become the main focus, while ignoring the problems that families are experiencing. Under ASFA, the best interests of the child tends to focus on child maltreatment without exploring other confounding issues such as addiction, poverty, domestic violence, mental health challenges, and other family risk factors.

Research Evidence

Evidence suggests that minority, poor and rural children, and children of substance abusers (who frequently are themselves former foster children) are most likely to be separated from their biological families under welfare reform and new adoption policies.

In 2002, 12.1 million children under the age of 18 lived in families with incomes below the federal poverty level. Under the new welfare system, the rural poor are those who live in socially, economically, and spatially disadvantaged communities. More residents in these communities are likely to need TANF, are least likely to leave TANF by finding employment, and their community organizations are more likely to have limited resources to help TANF recipients.

More than half of agency administrators in one study perceived an increase in the number of child welfare cases handled by the agency following TANF implementation. This finding would seem to reinforce the widespread concern regarding the potentially negative effects of PRWORA for the most troubled families. The low funding of TANF by many states, the frequent adoption of harsh policies, and the unexceptional quality of many state plans are reminders that the flexibility states were given under the PRWORA has both positive and negative consequences. Women in conservative states, or states with high minority enrollments, are more likely to face poorly funded programs, tougher work requirements, stricter time limits, family caps, and harsher sanctions.

Welfare parents who lack feasible and realistic support may be prone to ongoing or future involvement with CPS. An estimated 872,000 children were victims of maltreatment in 2004. Since there is a strong association between poverty and child maltreatment, poor children are overrepresented in child welfare. While poverty does not cause maltreatment, the effects of poverty appear to interact with other risk factors (depression, isolation, teenage pregnancy, unemployment, substance abuse, and domestic violence) to increase the likelihood of maltreatment. Additionally, more than half of the 500,000 children in foster care in America

come from racial or ethnic minority families although minority children constitute less than half the children in the United States.

One reason that minority children come to the attention of child welfare authorities is because of substance abuse issues. In the United States today, substance abuse has become an alarming reality. When parents abuse drugs or alcohol the impact on their children is profound. Over 13 million children live with a parent who has used illicit and addictive drugs in the past year. Addicted parents come from all socioeconomic levels, but it is often the additional factor of poverty that brings them to the attention of child welfare agencies. Therefore, substance abuse programs that offer services to child welfare populations are particularly important. However, experts have suggested that a number of required timelines in various social service agencies need to be considered when working with families in which substance abuse is a factor. The increased speed by which permanency decisions are mandated is troubling because of the lengthy recovery period associated with drug and alcohol addiction that is not accounted for in the time limits imposed by ASFA.

Research has shown that co-morbidity between mental health, substance abuse, and poverty, is another layer to be considered. Many of the parents are themselves products of the foster care system experiencing multiple problems including years of unaddressed mental health challenges, developmental deficits, illiteracy, lack of vocational skills and addictions. The current timeline is not effective. A blended perspective on the effects of timelines indicates that although service expediency is a benefit, the problems produced by poverty and substance abuse require more than quick, accessible service. They also require intensive intervention that often extends for a longer time period.

Policy Recommendations and Solutions

The most important task for welfare advocates and those who are concerned about social injustices is to lobby diligently policy makers on all levels (federal, state and local) regarding changes in already existing policies and/or in support of newly developed policies that are more realistic in addressing the root of the problems.

Considering parental mental health in context, with the knowledge that there is a limited amount of time in which parents can demonstrate improvement, can be an initial step toward reducing the many barriers to successful family reunification. Advocates are not suggesting parents have an unlimited amount of time to work toward accomplishment of their case plans while their children grow up in foster care. Instead, advocates are stressing how important it is that policy makers consider the holistic needs of these at-risk families via feedback from the experts. Social workers, family therapists and other advocates who have conducted studies can provide valuable feedback and information regarding what can realistically be accomplished within the limited time frame allotted by ASFA. Many policies mandate specific criteria to which the agencies must adhere if funding is to be maintained. Without funding, programs and service delivery are thwarted, and without sufficient services and specialized treatment programs, the battle of protecting our most precious resource via child welfare is a losing one. Many times CPS workers are struggling with providing quality services for both parents and children, while working to comply with national policies that often don't support best practices on the local levels.

Policy Review

Policies at the state and local level must be reevaluated to determine the impact of major directives and stipulations on the well-being of children and their families.

- The permanency focus of ASFA and the provisions that may prompt swifter action by the courts to terminate parental rights are creating serious challenges for troubled families and should be determined on a case by case basis, leaving flexibility in those situations where the parents are truly complying with their CPS case plans. Removing children with a deemphasis on family preservation can be detrimental. Research has shown that the focus on “quick adoptions” has resulted in poorly handled adoptions and poorly placed children. Adoptions are pushed through too quickly and disruptions after placement are numerous.
- Policy should be amended to reflect minimal or no penalties for those states who fail to meet the present mandate to expeditiously place children in foster care but who otherwise demonstrate responsibility and accountability. For example, child welfare and social workers should be allowed the freedom to advocate for quality assurances in adoption practice without fear of being penalized. Clinical content should be incorporated in decision-making versus a strict adherence to timeframes and stated numerical goals. Fiscal incentives to states for expeditiously removing children from foster care and placing them in permanent settings should be reevaluated. Utilizing qualified clinical staff to partner with child welfare workers and to serve as communicators to the courts about treatment issues should be a best practice.
- Policies should be amended to reflect more financial and supportive services for those foster care providers who meet the criteria of “kinship” caregivers, thereby providing the child with the familiarity and surroundings of a dependable relative. This would ease the pressure of time constraints that presently exist for the states to expedite placement decisions while allowing the biological parents to address their issues and successfully work toward completing the goals of their case plan. Although there are advantages in keeping children within the context of their families of origin, present policy creates problems regarding supportive funding for those extended family members who may be willing to be caregivers but who are already too stressed financially.

Improvements to Existing Policies

Policy changes at the national level that will allow states more discretion and autonomy in the process of service delivery (without punitive measures) are necessary. Many of the quality substance abuse rehabilitation treatment facilities are developed with the sole purpose of providing holistic treatment sometimes lasting from eighteen months to two years. The requirements of the treatment facilities clash with the timelines that are created by ASFA and PRWORA. For those parents who are serious about becoming productive and responsible citizens and/or reunification with their children, adherence to the strict timeline can be a tremendous challenge.

- The amendment of social policy toward a more supportive nature in regard to the courts and their challenges and in the achievement of the CPS goals and objectives is critical. The activities of child welfare agencies are often delayed by the courts as a result of the policy mandates. Quality assurances in adoption practice and permanent placement of children are necessities, and clinical context should be incorporated in decision making

rather than the strict adherence to timeframes and stated numerical goals. More critical and effective monitoring and evaluation of statewide placement practices and service delivery protocols are needed, and policy amendments should reflect this notion both financially and strategically.

- States are now told to simultaneously plan for adoption (i.e., identify, recruit, process, and approve an adoptive parent on behalf of any child) and make reasonable efforts to reunify a child with the existing family unit. This is termed concurrent planning for children and, by ASFA mandates, must be established early in the judiciary process. The amount of time parents have to regain custody of their children before hearings are initiated to terminate parental rights is currently reduced to the first year of a child's placement in foster care unless parents effectively demonstrate that they are working to improve the situation that led to the removal of their children. What determines effectiveness? Most of the time, these are legal decisions that are made at the state level where there is pressure to reduce the foster care numbers. An evaluation of concurrent planning should be pursued to determine its feasibility and impact on cases in the child protective service system.

Prevention and Intervention Strategies

Policies need to be developed and/or revamped with the focus on addressing and supporting prevention and early intervention strategies in an effort to assist child welfare agencies. Many CPS cases are already in a later stage of intervention when the CPS investigators become involved, despite the interest in and need for prevention and early intervention.

- New funding arrangements at the local, state, and national levels to support primary prevention efforts via the use of innovative programs are a necessity. Some programs already exist within the child and family welfare system. However, they are underemphasized due to contradictory ASFA mandates. Evaluative studies indicate that these program innovations are effective in promoting children's development, especially if the programs are adequately funded and if practitioners and their supervisors are fully trained and supported in their work.
- Prioritize sufficient funding and policy support of "front-end" services and programs including education and other interventions (before CPS becomes involved) that support the efforts of all families to care for their children. When children are cared for by parents with substance abuse issues, they are exposed to many risks including maltreatment. Primary and secondary prevention efforts should address these and other issues such as the initiation of treatment prior to a CPS investigation, home visitation, education about lowering the teen birth rate, abandonment which leaves children with a single or no parent, improving child support from absent parents, and improving the education of low-income parents. Increased community partnerships amongst child welfare workers, other professionals including educators, hospital social workers, and mental health practitioners, public health workers and law enforcement can work collaboratively to improve the future of children and families.
- Fund innovative CPS programs such as "safety planning," which is the integration of child welfare agencies with community, neighborhood, school-based services and other supportive measures. It empowers child welfare agencies to play a stronger role in influencing economic, educational, mental health, housing, vocational, educational, and other resources for assistance in achieving the shared outcomes they have created for

children and their families. The objectives of safety planning are to protect the child as well as other family members and to provide every child with a “stable home” through family preservation, reunification, termination of parental rights and adoption, or long-term foster care with guardianship, in that order of priority.

- Revamp CPS family preservation programs to go beyond the present focus of child protection and to also address the root of many family problems including substance abuse, unemployment, housing and the health and mental health needs. It is crucial to recognize that many struggling parents are second and third generational foster care children themselves. Sufficient funding of programs geared toward enabling mothers or fathers to be effective parents while learning to adapt and maintain a sober lifestyle is of utmost importance.
- Additional funding and policy changes are needed to support efforts to create and develop an individualized response to families who are affected by the PRWORA. Many of these families are those who have entered the CPS system or those families who don't fit this profile in its entirety. Challenges and barriers to avoid returning to the “welfare rolls” still exist, and the policy doesn't account for the fact that many of the recipients may be former childhood welfare recipients, illiterate, delayed developmentally, have a large number of children and live in poverty or distressed neighborhoods. The PRWORA was designed to match policies to the unique needs of each state or regions within a state. However this flexibility means that those in need of assistance may be treated differently depending on the state in which they live, or sometimes even the area of the state in which they reside.
- Families in need may be helped by expansions in the childcare subsidy, extension of cash benefits and a reduction or delay in work requirements on a case by case basis. The mandate of transitioning from welfare to work does not account for unaddressed mental health issues, transportation issues, childcare challenges, minimum wage issues or insufficient income. This is an injustice and increases the likelihood of returning to welfare dependence. More research is needed about the vital relationship between mental health and welfare to work policies. Prior findings suggest that employment can possibly increase the stress levels of current or former welfare recipients without prior work experience to the point where they are prone to child rearing mistakes that can result in a CPS investigation. Outcome evaluation is crucial to the development of primary and secondary prevention efforts for vulnerable families.

Current child welfare programs reflect the influence of a number of significant historical factors, including diverse ideological views, contradicting political forces, volatile economic trends, divergent laws, and widespread changes in child-rearing practices. Crucial to addressing the issues of children and families in need is a combination of supportive multidisciplinary treatment planning, professional training in skills and competencies, and most of all funds to support direct services, preventive services, ongoing needs assessments and research. Failure to address the superficial ideology of these policies via these avenues will result in an ongoing cycle that will continue to be detrimental to the children and the families being served by the child welfare system.

Key Resources

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