Adoption Outcomes for Foster Care Children: The Role of Attorney Representation

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University of Oregon

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- The majority of foster children come from disadvantaged backgrounds.

- Foster care entry increases delinquency, teen pregnancy, and unemployment (Doyle 2007, 2008).

- Foster entry and tenure also linked to mental health and behavioral problems, illicit drug use, and high school incompletion (Blome, 1997; Newton *et al.*, 2000; Rubin *et al.*, 2004, 2007; Pilowsky and Wu, 2006; Pecora *et al.*, 2006).
Figure 1: Entry to Discharge in the Foster Care System

Placement into Foster Care: 121,777 Children

- Reunified: 64,476 Children
  - Adoption: 26,801 Children
  - Guardianship: 20,370 Children
  - Still in Foster Care/Aged Out: 10,130 Children
- Not Reunified: 57,301 Children
Figure 2: Days from Entry to Adoption, Kernel Density Estimate
When a child is removed from their home, dependency proceedings ensue to determine the foster child’s placement plan. The placement plan must be finalized within the first year in foster care.
Why Lawyers Matter

- When a child is removed from their home, dependency proceedings ensue to determine the foster child’s placement plan
  - The placement plan must be finalized within the first year in foster care

- A child attorney plays a key role in defining and facilitating the placement plan
  - Duties include filing legal motions for discovery, the filing of termination of parental rights petitions, and efforts to identify pre-adoptive homes.
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In the absence of an attorney a child receives independent representation in the form of a Guardian ad Litem.
Why Lawyers Matter

Greater legal expertise and access to resources

The court decision-making process less subjective and more fact-based

Child clients better informed of their options, and expressed interests better represented
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Link between legal representation and adoption outcomes

Slowriver and Zinn, 2008
In 1974, Congress passed the Child Abuse and Neglect Prevention and Treatment Act (CAPTA). CAPTA mandates states to provide representation in the form of a guardian ad litem. Shortly after, states began passing statutes mandating lawyer guardian ad litem (LGAL) representation. Currently, there are 34 states with an LGAL mandate in place. In the absence of a statute, foster children may still receive legal counsel. In a given non-mandating state, about 25% of foster children are assigned to a lawyer.
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In the absence of a statute, foster children may still receive legal counsel. In a given non-mandating state about 25% of foster children are assigned to a lawyer.
Between 2001-2014 a mandated LGAL statute went into effect in 5 states.

<table>
<thead>
<tr>
<th>State</th>
<th>Treatment Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>OH</td>
<td>9/2003</td>
</tr>
<tr>
<td>MT</td>
<td>7/2006</td>
</tr>
<tr>
<td>TN</td>
<td>7/2007</td>
</tr>
<tr>
<td>MO</td>
<td>9/2008</td>
</tr>
<tr>
<td>RI</td>
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Research questions:

Q1: Does legal counsel change rates of adoption?
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Q2: Does legal counsel differentially affect at-risk populations?
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Research questions:

Q1: Does legal counsel change rates of adoption?
Q2: Does legal counsel differentially affect at-risk populations?
Q3: Does legal counsel affect foster-care reentry from adoption?

Identification:

State-year variation in LGAL mandates
I model the relationship between the linear predictors and the probabilities of each of four exit outcomes with the multinomial logit function:

\[ p_{ij} = \Pr[y_i = j] = \exp(X' \beta_j) \sum_{k=1}^{4} \exp(X' \beta_k), \quad j = 1, \ldots, 4 \]

\[ X' \beta = \beta_0 + \beta_1 \text{LGALismy} + \delta X \text{ismy} + \alpha_s + \lambda_m + \gamma_{\text{state}} \text{enters foster care in states with mandate in effect in} \]

\[ \text{Age at removal, race, gender, ethnicity, population, racial compositions, unemployment rate, median household income, annual TANF expenditure} \]
**Empirical Strategy**

I model the relationship between the linear predictors and the probabilities of each of four exit outcomes with the multinomial logit function:

\[
p_{ij} = Pr[y_i = j] = \frac{\exp(X'\beta_j)}{4 \sum_{k=1}^{4} \exp(X'\beta_k)}, \quad j = 1, ..., 4
\]

\[
X'\beta = \beta_0 + \beta_1 1(LGAL_{ismy}) + \delta X_{ismy} + \alpha_s + \lambda_m + \gamma_y + t_{smy}
\]

- \(1(LGAL_{ismy})\) \(i\) enters foster care in state \(s\) with mandate in effect in \(my\)
- \(X_{ismy}\) Age at removal, race, gender, ethnicity, population, racial compositions, unemployment rate, median household income, annual TANF expenditure
Figure 3: Entry to Discharge in the Foster Care System

Placement into Foster Care

- Reunified
  - Category 2
- Not Reunified
  - Adoption
    - Category 1
  - Guardianship
    - Category 3
  - Continued Stay/Aged Out
    - Category 4
**Data: Foster Care Files**

Foster-care data come from the Adoption and Foster Care Analysis and Reporting System (AFCARS) from the federal fiscal years 2001-2014

- Personal and case information on the universe of foster-care children
- Reasons for and dates of system entry and exit

**Sample selection**

- Sample restricted to first-time entrants, entering between 2001–2010, who are 14 and younger.
LGAL MANDATE AND ADOPTION

Figure 3: LGAL on Adoption, Preferred Specification

Alt. Specifications
Figure 4: LGAL on Adoption in the First Four Years
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Figure 5: LGAL on Adoption in the First Four Years

The change in the number of children due to treatment.
Figure 6: LGAL on Termination of Parental Rights (TPR) in the First Four Years
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WHAT WE KNOW…

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A1a: No. There is no evidence of a change in the probability of adoption within four years
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   A1b: There is evidence that LGALs expedite adoptions
Partial Treatment

Children placed in the foster care system prior to treatment are appointed an attorney after the fact.

To estimate the effect of partial treatment, I estimate the seven category multinomial logit model with the following linear predictors:

\[ X' \beta = \beta_0 + \beta_1 \text{ LGALismy} + \beta_2 \text{ EntryPriorismy} + \delta X \text{ ismy} + \alpha_s + \lambda m + \gamma y + t \text{ ismy}, \]

where EntryPriorismy is equal to 1 if a child enters the system within \( x \) months prior to the law, and zero otherwise.
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$$X' \beta = \beta_0 + \beta_1 1(LGAL_{isy}) + \beta_2 1(EntryPrior_{isy}) + \delta X_{isy} + \alpha s + \lambda m + \gamma y + t_{smy},$$

where $EntryPrior_{isy}$ is equal to 1 if a child enters the system within $x$ months prior to the law, and zero otherwise.
Figure 7: Adoption in the First Year of Foster Care, Partial Treatment Effects
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[Graph showing adoption rates over different months prior to LGAL mandate]
Figure 8: Adoption in the Second Year of Foster Care, Partial Treatment Effects
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Figure 9: LGAL on Adoption in the Second Year of Foster Care, Before and After Treatment
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Figure 10: LGAL on Adoption in the First Year of Foster Care, Before and After Treatment
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Child characteristics are indicators of the probability of and time to adoption.
SUBGROUP ANALYSIS

- Child characteristics are indicators of the probability of and time to adoption

- Legal counsel may have a greater impact on groups that tend to suffer more from biased decision-making
  - Advocate for a more fact based decision-making process, represent the expressed wishes of child clients
**Subgroup Analysis**

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- Legal counsel may have a greater impact on groups that tend to suffer more from biased decision-making
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- I look at differences across age groups, reason for removal, race, and gender
Figure 11: LGAL on Adoption, by Age Group
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Figure 12: LGAL on Adoption, by Reason for Removal
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Figure 13: LGAL on Adoption, by Race
Figure 13: LGAL on Adoption, by Race
Figure 13: LGAL on Adoption, by Race
Figure 14: LGAL on Adoption, by Gender
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Concern over tenuous adoption matches
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To explore the stability of child attorney-facilitated adoptions I look at the probability of reentry within two years of discharge
Concern over tenuous adoption matches

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On average, about 0.4% of adopted children re-enter foster care within two years
Table 1: LGAL on Reentry Within 2 Years of Discharge

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<thead>
<tr>
<th></th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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<td>0.005</td>
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<td>Observations</td>
<td>246,697</td>
<td>692,363</td>
<td>216,317</td>
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<td>Pre-Treatment Mean</td>
<td>0.005</td>
<td>0.140</td>
<td>0.064</td>
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<tr>
<td>Impact (%) at Pre-Treatment Mean</td>
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<td>Yes</td>
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<tr>
<td>State Specific Linear Trends</td>
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<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Individual- and State-level Controls</td>
<td>Yes</td>
<td>Yes</td>
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<td>LGAL Mandate</td>
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<tr>
<td>From Adoption</td>
<td>From Reunification</td>
<td>From Guardianship</td>
<td></td>
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**CONCLUSION**

- Lawyers mitigate potential long-run societal costs associated with foster care tenure.
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- Savings in child welfare financial costs
  - On average, the annual net savings for 1 child to be adopted from foster care $15,500 (Zill, 2011).
  - The average cost of legal counsel per child per year is between $1,500-4,500 (Taylor, 2009).
  - Annual net savings for one child to be adopted one-year faster, with attorney representation $11,000-14,000.
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I highlight the importance of understanding how court reforms impact foster youth outcomes
Appendix
Figure: LGAL on Adoption, Controlling for State and Time Fixed Effects
Figure: LGAL on Adoption, Controlling for State and Time Fixed Effects and State-Specific Trends
## Subgroup Analysis

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Probability of Adoption by Year 4</th>
<th>Days to Adoption</th>
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</thead>
<tbody>
<tr>
<td>0-5 years old</td>
<td>0.31 (0.46)</td>
<td>816 (289)</td>
</tr>
<tr>
<td>6-10 years old</td>
<td>0.13 (0.14)</td>
<td>896 (277)</td>
</tr>
<tr>
<td>11-14 years old</td>
<td>0.07 (0.25)</td>
<td>930 (285)</td>
</tr>
<tr>
<td>Black</td>
<td>0.21 (0.41)</td>
<td>874 (296)</td>
</tr>
<tr>
<td>White</td>
<td>0.24 (0.43)</td>
<td>811 (286)</td>
</tr>
<tr>
<td>Abuse</td>
<td>0.19 (0.39)</td>
<td>850 (290)</td>
</tr>
<tr>
<td>Other</td>
<td>0.26 (0.44)</td>
<td>820 (289)</td>
</tr>
<tr>
<td>Female</td>
<td>0.24 (0.43)</td>
<td>832 (291)</td>
</tr>
<tr>
<td>Male</td>
<td>0.24 (0.42)</td>
<td>834 (289)</td>
</tr>
</tbody>
</table>