

# Raising the Cut-Off: The Empirical Case for Extending Adoption and Guardianship Subsidies from Age 18 to 21

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Few children become financially independent at age 18. Adolescents often (and increasingly) rely financially on their parents or caretakers until an older age.<sup>1</sup> Such reliance is likely to be greater among children who have been abused or neglected by their birth families, and who, by court finding, could not reunify with their parents.<sup>2</sup> Parental abuse and neglect is often associated with special needs in children, and the dislocation from birth families to the foster care system imposes trauma. A disproportionate number of such children have a mental illness,<sup>3</sup> behavioral challenges,<sup>4</sup> or learning disability<sup>5</sup> that may require the provision of services. Many children involved in foster care lose one or more years of school or have to repeat grades, leaving them living at home enrolled fulltime in secondary school past the age of 18.<sup>6</sup>

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<sup>1</sup> For purposes of federal financial aid for higher education, a student is not considered financially independent until they turn 24 years old. 20 U.S.C. § 1087vv(d)(1) (2008).

<sup>2</sup> Judith Wildfire, ET AL., *Predictors of Reunification, in Child Protection: Using Research to Improve Policy and Practice* 165 (Ron Haskins ET AL. eds., Brookings Institution Press 2007) (2007). Puts national reunification rate of children removed from their birth families at 43 percent, and thus the non-reunification rate at 57 percent.

<sup>3</sup> One study found that 54 percent of former foster children had one or more mental health disorders in the previous twelve months, compared with 22 percent of the general population. Peter Pecora, ET AL., *Improving family foster care: Findings from the Northwest Foster Care Alumni Study*, Casey Family Programs, 32-34 (2005), available at <http://www.casey.org/Resources/Publications/NorthwestAlumniStudy.htm>.

<sup>4</sup> Researchers have found that children with behavioral difficulties are less likely to reunify with birth parents and are thus more likely to require an adoptive home or permanent legal guardianship.

John Landsverk ET.AL., *Impact of Child Psychosocial Functioning on Reunification from Out-of-Home Placement*, 18 CHILDREN & YOUTH SERVS. REV. 447 (1996).

<sup>5</sup> Mary Bruce Webb, ET AL., *Addressing the Educational Needs of Children in Child Welfare Services, in Child Protection: Using Research to Improve Policy and Practice* 253 (Ron Haskins ET AL. eds., 2007) (2007). (noting that 30 percent of foster children in the studied age group qualify for special education services as compared to 9 percent of children in the general population).

<sup>6</sup> The American Bar Association's Legal Center for Foster Care and Education has compiled the leading research documenting the significant number of foster children who repeat one or more grades, extending their

Adoption and guardianship subsidies may offset part of the cost of accepting permanent responsibility for the care of a child who has been in foster care. But not all adoption and guardianship subsidies can be extended to cover costs of support past the age of 18. This article explores the effects of extending adoption subsidies to age 21. Does extending subsidies increase the number of adoptions and legal guardianships from state foster care systems? Administrative data from state child welfare systems strongly suggests that the answer is affirmative.

This article begins with the context: despite increases in the number of adoptions from foster care achieved in the 1990s, tens of thousands of children remain in foster care awaiting adoption or permanent guardianship. The following section provides background on subsidy law and policy. The section describes the recent history of federal and state subsidies for parents who adopt children from the state foster care systems; the section describes state subsidies for caregivers who become legal permanent guardians of children in the state child welfare systems, and the section describes the disparities between adoption and guardianship subsidies and the subsidies for caregivers who do not seek legal permanency but instead remain foster parents. The section ends by categorizing the states according to their policies for providing adoption subsidies after a child turns 18.

The statistical evidence on the effect of subsidy extensions demonstrates that, by most measures, extensions increase the number of adoptions finalized for children in foster care. Based on the empirical results, the article

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time in high school and thus their economic dependence on adults. Once study concluded that twice as many foster children had repeated a grade as compared with the general population. Another study concluded that 36 percent of foster children had repeated a grade, and 45 percent of foster children in one state reported failing at least one grade. The American Bar Association's Legal Center for Foster Care and Education, Fact Sheet: Educational outcomes for children and Youth in Foster and Out-of-Home Care 3,

[http://www.abanet.org/abanet/child/education/open\\_file.cfm?id=142](http://www.abanet.org/abanet/child/education/open_file.cfm?id=142) (last visited 15 May 2008).

concludes with recommendations for federal and state adoption and guardianship subsidy policy changes to meet the needs of the tens of thousands of children at risk of growing up in foster care.

### **I. Current demand for adoptive parents of foster children**

For each of fiscal years 2002-2006, about 800,000 children have been served by child welfare systems in the states. At any one point in time, just over 500,000 children are in care.<sup>7</sup> Of the half million children in care on September 30, 2006, 23 percent had a case goal of adoption and four percent had a case goal of permanent guardianship.<sup>8</sup> Adoption and legal guardianship both create a permanent relationship between family and child and remove a child from the child welfare system. Adoption severs the legal parent-child relationship between birth parents and children, and creates the legal parent-child relationship between adoptive parents and the child. Subsidized guardianship transfers legal responsibility for a minor child from the state to a private caregiver or guardian but does not require termination of birth parent rights and does not create new parent-child legal bonds.

Between 51,000 and 53,000 children exited foster care through adoption during fiscal years 2002-2006.<sup>9</sup> The average child waiting to be adopted on September 30, 2006, had been in foster care almost 40 continuous months and was about eight years old.<sup>10</sup> As of that date, 129,000 were “waiting to be adopted” according to federal statistics, and that figure

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<sup>7</sup> U.S. Children's Bureau, Administration for Children, Youth and Families, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/trends.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/trends.htm). (last visited Nov. 16, 2008)

<sup>8</sup> U.S. Children's Bureau, Administration for Children, Youth and Families, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report14.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report14.htm). (last visited Nov. 16, 2008)

<sup>9</sup> U.S. Children's Bureau, Administration for Children, Youth and Families, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/trends.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/trends.htm). (last visited Nov. 16, 2008)

<sup>10</sup> U.S. Children's Bureau, Administration for Children, Youth and Families, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report14.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report14.htm). (last visited Nov. 16, 2008)

*excludes* teenagers over the age of 16 with case goal of emancipation.<sup>11</sup> The median time for children waiting in foster care was 28.9 months, and more than a third of these children were 10 or older (a proportion that would be even higher if youth over 16 were included).<sup>12</sup>

The number of children in foster care with an unmet goal of adoption is particularly large among older children. Nearly 40 percent of waiting children were 10 years old or older.<sup>13</sup> Since the passage of the Adoption and Safe Families Act in 1997, there have been increases in the number of adopted teens. About 3,000 children age 10 to 15 were adopted in 1996; adoptions of children in this age group more than tripled between 1996 and 2000. Fewer than 500 teens over 15 were adopted in 1996 but almost 2,500 were adopted in 2003.<sup>14</sup> However, there is still more work to be done. Figure 1 shows that many more children aged 10 and older continued to wait at the end of fiscal year 2006 than were adopted during the fiscal year. Note that the gap between the number waiting and the number adopted widens with each year of age.

Older children who are adopted are particularly likely to have a medical or emotional special need. Medical needs may include disability that requires a device such as a wheelchair, or diagnoses such as autism, ADHD, or fetal alcohol syndrome. Emotional disabilities may include attachment disorder, depression, or other conditions diagnosed by a trained mental health professional. Twenty three percent of children adopted with agency involvement from fiscal 1995

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> U.S. Children's Bureau, Administration for Children, Youth and Families, [http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report14.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report14.htm) . (last visited Nov. 16, 2008)

<sup>14</sup> "Age of Children at Adoption and Time from Termination of Parental Rights to Adoption." AFCARS Adoption Data Research Brief Number 2. ONLINE. North American Council on Adoptable Children, available at <http://www.nacac.org/pdfs/AFCARSageatadoption.pdf> (last visited Aug. 24, 2006), 7.

through fiscal 2005 were age 10 or older. Of the children adopted during this period, 66,100 had a primary special need (qualifying them for a federally-supported subsidy<sup>15</sup>) that was “medical” in nature (as opposed to race, sibling group, etc.).<sup>16</sup> Thirty percent of the children whose primary special need was medical were also age 10 or older; that is, teens are overrepresented in the population of adopted children with medical special needs. Of the 31,800 adopted children who were recorded in AFCARS as “emotionally disturbed”, 46.6 percent were age 10 or older. About 6,500 adopted children were identified in AFCARS as “mentally retarded”; 34.6 percent were teens.

Teens and young adults with such a high incidence of special needs are unlikely to be prepared for financial independence at age 18; adoptive parents and guardians will be hard-pressed to pay for their care.

## **II. Federal and state subsidies for parents who adopt children from the neglect system**

For more than a generation, the federal government and the states have financially subsidized adoptions of children in states’ child neglect systems, and these subsidies have grown to several billions of dollars in annual expenditures.<sup>17</sup> When it passed the Adoption Assistance and Child Welfare Act in 1980,<sup>18</sup> Congress noted the “[s]erious difficulties” in identifying adoptive homes for children with special needs, older children, children in a large sibling group,

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<sup>15</sup> 42 U.S.C. § 673(c) (2) (2008).

<sup>16</sup> Statistics in this paragraph are calculations of the authors using the Adoption Files of the public use data set of Adoption and Foster Care Analysis and Reporting System (AFCARS), which is available through the National Data Archive on Child Abuse and Neglect, <http://www.ndacan.cornell.edu>. (last visited Nov. 16, 2008)

<sup>17</sup> The General Accounting Office projected that in FY ’08, the federal and state governments would combined spend \$2.9 billion in adoption subsidies and related administrative expenses. Administrative Expenditures and Federal Matching Rates, GAO-05-839 R (2005), available at <http://www.gao.gov/new.items/d05839r.pdf>. (last visited Nov. 16, 2008)

<sup>18</sup> PL. 96-272, 94 Stat. 500 (1980).

and ethnic or racial minorities, and concluded that financial subsidies were necessary so adoptive families could “afford the expense required to adequately meet the special medical or other needs of these children.”<sup>19</sup> Congress predicted that providing financial subsidies would “significantly increase the number of children placed in permanent [adoptive] homes.”<sup>20</sup>

For all of this effort, more than one hundred thousand children remain in foster care with a goal of adoption.<sup>21</sup> This article does not attempt to enter the debate whether the states’ foster care systems bring too many children into care, and separate too many families (which, if it were so, would blame the underlying state intervention, at least in part, for the lack of permanent homes for these children)<sup>22</sup> or whether severe abuse and neglect is so prevalent that these systems ought to intervene more aggressively and seek increased numbers of adoptions.<sup>23</sup> Our goal is more modest. Starting with the present reality that the nation’s child welfare systems have identified thousands more children in need of adoptive homes than adoptive homes for those children and that this truth seems likely to continue, this article examines one discrete element of our nation’s child welfare policy: financial subsidies provided by state governments and partly reimbursed by the federal government to parents of children adopted from the abuse and neglect system. Specifically, this article focuses on the question of when those subsidies should end – whether, as in many states, they should end at age 18, or whether they should continue until a child turns 21, or even older.

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<sup>19</sup> Committee on Ways and Means, Social Services and Child Welfare Amendments of 1979, H.Rn. No. 96-136, at 55 (1979).

<sup>20</sup> *Id.* at 56.

<sup>21</sup> See *infra* Part IV.

<sup>22</sup> See, e.g., Martin Guggenheim, *Somebody’s Children: Sustaining the Family’s Place in Child Welfare Policy*, 113 Harv.L.Rev.1716 (2000).

<sup>23</sup> See, e.g., Elizabeth Bartholet, *Nobody’s Children: Abuse and Neglect, Foster Drift, and the Adoption Alternative*, Beacon Press (1999).

*A. Federal rules*

The Adoption Assistance and Child Welfare Act of 1980 set the funding and structure for federally-supported adoption subsidies. Twenty-eight years later, that Act remains the fundamental structure for adoption subsidies. The Act sets minimum standards that all states which choose to accept federal funds (and all states do) must follow, and gives states the option of receiving federal financial support if the states take particular actions beyond those minimum standards. The federal government will financially support state government expenditures on an adoption subsidy that follows the Act.<sup>24</sup>

The presence of the federal dollars for certain subsidies renders state efforts to provide subsidies beyond the Act – that is, subsidies provided without federal financial participation – more expensive by comparison. The federal law sets a floor, not a ceiling, for state action, but states would have to cover the entire bill for adoption subsidies beyond the federal floor. Put another way, from the perspective of a state budget officer, providing subsidies beyond what the federal government requires costs significantly more than providing subsidies required by federal law, because the federal government will cover half or more of the cost of the latter subsidies but none of the former. As a result, one expects state governments to be more likely to choose an optional subsidy program if the federal government provides reimbursement.

Such programs include providing an adoption subsidy to a parent of an adopted child between the ages of 18 and 21. Federal law provides that federally-supported adoption subsidies end when the child turns 18 “or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one.”<sup>25</sup> Accordingly, when a state makes such a determination, the federal government will subsidize the adoption subsidy until the child turns 21. Absent such a

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<sup>24</sup> 45 C.F.R. § 1356.60(a)(ii) (2008).

<sup>25</sup> 42 U.S.C. § 673(a)(4)(A) (2008).



determination, the state can provide an adoption subsidy until a child turns 21, but the federal government will not financially support that subsidy and the state will have to pay it using entirely state or local funds.

### *B. State rules*

While the federal funding standards just described shape much of state policy, individual states retain ultimate responsibility for setting subsidy policies for adoptions of children within their neglect systems. States are free to set subsidy policies that provide adoption subsidies to adoptive parents of any child until they turn 21, whether or not the state determines that the child has a mental or physical handicap. For that matter, states could provide such subsidies until a child beyond age 21, to whatever age the state sees fit. The only consequence is that when a state provides subsidies beyond what the federal government will support, the additional subsidies must be paid entirely by the state, without any federal reimbursement. For example, consider the adoption of a thirteen year old boy from one state's foster care system. Assuming that child meets all the federal law requirements, the state will receive federal reimbursement for a portion of that child's subsidy until the child turns 18. If the state does not determine that the child has a mental or physical disability that justifies continuing the subsidy until age 21, then the state may continue to pay the subsidy, but it must do so without any federal reimbursement.

As discussed in more detail in Part V, states have adopted a wide variety of policies for the provision of adoption subsidies past a child's eighteenth birthday. Some states never provide subsidies past age 18. Some provide subsidies until an older age – in some cases 19, but more usually 21 – if the youth continues to be enrolled full time in high school or a GED or vocational program. Some states provide the subsidies until age 21 for youth attending college as well. Some states provide subsidies until age 21 if the child has some disability, a standard that overlaps with the federal “mental or physical handicap which warrants the continuation of assistance” standard.

### III. Guardianship subsidies, a parallel system

Many states have created roughly parallel systems for the provision of subsidies to permanent legal guardians. While adoption terminates all of a birth parent's legal rights, guardianship leaves some of those rights intact.<sup>26</sup> Guardianship presents an attractive option for children who the court will not permit to live with their parents but who maintain some relationship with their parents and do not want to see that relationship legally severed. It also presents an attractive option for kinship caregivers who want to form a legally permanent relationship with a neglected child in their care – and thus close the neglect case and get the child welfare system and family court out of their lives – but who do not want to terminate the parental rights of a relative.

Many states offer guardianship subsidies to permanent legal guardians just as they offer subsidies to adoptive parents.<sup>27</sup> And these states set policies as to at what age these subsidies will expire, with most states ending these subsidies when a child turns 18.<sup>28</sup>

The most important difference between guardianship and adoption subsidies is that the federal government financially supports a wider set of adoption subsidies. Historically, the federal government provided financial support for eligible adoption subsidies, but not for guardianship subsidies. Under a law that took effect in October, 2008, federal financial support is now available for guardianship subsidies when children live with relatives, but not when the guardian lacks a pre-existing familial

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<sup>26</sup> See, e.g., D.C. Code § 16-2389(c) (2008) (listing parental rights remain after a legal guardianship is created).

<sup>27</sup> See, e.g., D.C. Code § 16-2399 (2008)

<sup>28</sup> See, e.g., D.C. MUN. REGS. tit. 29, § 6104.4(d)(1) (2008) (ending all guardianship subsidies when the child turns 18) Guardianship Subsidies, <http://www.adopting.org/adoptions/legal-options-for-caregivers-page-5-subsidized-guardianship.html> (last visited May 16, 2008).

relationship.<sup>29</sup> No such limitation to relatives exists in federal financial support for adoption subsidies.

#### **IV. Disparities in treatment of subsidies for 18 through 21 year olds**

Adoption subsidies are one part of a larger set of financial supports for children in the foster care system. The treatment of these supports varies depending on their type; while one 19 year old's caregiver may not receive an adoption subsidy, a caregiver with a different legal status vis-à-vis an otherwise similarly situated 19 year old may obtain other financial supports for the child. The availability of other supports creates perverse incentives to avoid adoption so that the caregiver can obtain those other supports, and it also indicates that in some areas society has recognized the need to provide continued financial support to children until they turn 21.

Many states permit neglected youth to remain in foster care until they turn 21.<sup>30</sup> The caregivers of such youth may receive a foster care subsidy until the youth's 21st birthday. If these states either do not offer adoption or guardianship subsidies until age 21 or only offer them in a small set of cases, caregivers of children of all ages face a perverse

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<sup>29</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, § 101 (2008).

<sup>30</sup> ALA CODE § 12-15-32 (2008); ALASKA STAT. § 47.10.100 (2007) (to age 19); ARK. CODE ANN. § 9-27-303 (2007); CAL. WELF. & INST. CODE § 303 (2008); COLO. REV. STAT. § 19-3-205 (2006); CONN. GEN. STAT. § 17a-93 (2008) (defining people age 18-21 as "children" if they are enrolled full time in a school or vocational program); D.C. CODE § 16-2303 (2008); 5FLA. STAT. ANN. § 39.013 (2008) (can extend jurisdiction until age 22 upon youth's request); HAW. REV. STAT. § 587-12 (2006) (age 19); 705 ILL. COMP. STAT. 405/2-32 (2008); IND. CODE ANN. § 31-30-2-1 (2007); KAN. STAT. ANN. § 38-1503 (2006); KY. REV. STAT. ANN. § 610.010 (2006); ME. REV. STAT. ANN. tit. 4, § 183 (2008); MD. CODE ANN., CTS. & JUD. PROC. §3-804 (2007); MISS. CODE ANN. § 43-21-151 (2008) (age 20); MO. REV. STAT. § 211.041 (2007); N.Y. FAM. CODE § 1055(d) (2007); N.D. CENT. CODE § 27-20-36 (2007); OR. REV. STAT. §419B.328 (2006); 42 PA. CONS. STAT. § 6302 (2006); S.C. CODE ANN. § 20-7-400(B) (2007)

incentive to avoid permanency. That is, caregivers can avoid legal permanence by choosing not to seek guardianship or adoption and secure a financial subsidy until age 21.

This perverse incentive may expand in coming years. Starting in October, 2010, the federal government will provide financial support to keep children in foster care until age 21,<sup>31</sup> which may induce more states to expand foster care until that age. This change responds to advocacy to expand of the foster care system until at least age 21 to better recognize that brain development continues well past age 18 and that youth over 18 continue to rely on the assistance of their caregiver for housing and financial support.<sup>32</sup> Although those same conclusions would seem to apply to abused or neglected children with adoptive parents or legal guardians, federal policymakers have not taken similar actions for federal financial support of adoption and guardianship subsidies, as will be discussed further in Part VII.

Any disparity that makes keeping a child in foster care a better financial option than seeking guardianship or adoption creates ill effects. Inducing families to choose the financially better option – long-term foster care – denies legal permanence to the children in those families and requires child welfare agencies to devote limited resources (both financial and social worker time) to managing generally stable cases where that, but for the subsidy issue, would not be open.

One might expect this perverse incentive to be particularly powerful in two important categories of cases: kinship caregivers, who census data suggests have less income

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<sup>31</sup> Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, § 201 (2008).

<sup>32</sup> See, e.g. Joint Center for Political and Economic Studies, *Aging Out of the Foster Care System to Adulthood: Findings, Challenges, and Recommendations*, 70 (2008), available at [http://www.jointcenter.org/publications\\_recent\\_publications/health/aging\\_out\\_of\\_the\\_foster\\_care\\_system\\_to\\_adulthood\\_findings\\_challenges\\_and\\_recommmendations](http://www.jointcenter.org/publications_recent_publications/health/aging_out_of_the_foster_care_system_to_adulthood_findings_challenges_and_recommendations).; Rosemary J. Avery and Madelyn Freundlich, *You're All Grown Up Now: Termination of the Foster Care Experience*, forthcoming in the *Journal of Adolescence* (2008).

than most families<sup>33</sup> and thus will be more sensitive to financial incentives, and caregivers of older children, who have less time to financially prepare for losing subsidies than caregivers of younger children.

#### **V. State law on adoption subsidies extension**

This article reviewed adoption subsidy laws and policies in all fifty states plus the District of Columbia. There are six categories of adoption extension policy:

- No adoption subsidies past the age of 18. These states are the most restrictive when it comes to adoption subsidy extensions;
- Subsidies available until the age of 19, but only for children who are enrolled in high school or an equivalent (GED, vocational or similar) program;
- Subsidies available until a child turns 21, but only for children who are enrolled in high school or its equivalent;
- Subsidies available until a child turns 21, but only for children who are enrolled in school of any form, including college;
- Subsidies available until a child turns 21 if the child has some severe disability; and
- Subsidies available until a child turns 21 if the child has a mild disability.

Several states have policies in two of these categories: providing a subsidy extension for a child enrolled in school or for a child with a disability. Nebraska automatically extends subsidies through age 19; New York State alone offers automatic extensions until age 21.

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<sup>33</sup> Jennifer Ehrle Macomber, ET AL., *Kinship Foster Care: Custody, Hardships and Services*, Urban Institute (2003), <http://www.urban.org/publications/310893.html> (last visited May 16, 2008).

The states are presented in Table 1 following these categories. When a state falls in multiple categories – for instance, providing a subsidy until a child turns 19 if the child still attends high school *and* until a child turns 21 if the child has a disability – the state is listed in all relevant categories. When states adopted or changed their policies since 1994, the dates of the policy shift in parenthesis. As discussed shortly, the data on adoptions begin in federal fiscal year 1995, so any state policy changes that occurred in 1994 or earlier are not noted; a state without a parenthetical date has had the indicated policy in place since before 1994. Several states have been excluded from this data set. While their adoption subsidy extension policies are known, the date by which those policies were adopted is not, so it was not possible to determine what years of the data set to include. Those states (with their current subsidy extension policies cited below) are Colorado,<sup>34</sup> Delaware,<sup>35</sup> Georgia,<sup>36</sup> South Dakota,<sup>37</sup> and West Virginia.<sup>38</sup>

States have been categorized by the adoption subsidies they have established in their own statutes, regulations, policy statements and other public pronouncements. It is not possible to observe how states apply official policies to individual cases. It is assumed that correlation exists between the state's official policy and the state's practice.

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<sup>34</sup> 12 COLO. CODE REGS. § 2509-3, 7.203.23(D) (2008)

<sup>35</sup> Delaware Department of Services for Children, Youth and their Families, Policy Manual 86 (2006), *available at* [http://kids.delaware.gov/pdfs/pol\\_fs\\_policymanual\\_2006\\_v2.pdf](http://kids.delaware.gov/pdfs/pol_fs_policymanual_2006_v2.pdf).

<sup>36</sup> Georgia Department of Human Resources, Adoption Assistance in Georgia, Financial Assistance for Children with Special Needs in Adoptive Placement, [http://dfcs.dhr.georgia.gov/DHR-DFCS/DHR-DFCS\\_FormsOnline/Adoptions/ADP\\_560.doc](http://dfcs.dhr.georgia.gov/DHR-DFCS/DHR-DFCS_FormsOnline/Adoptions/ADP_560.doc) (last visited June 3, 2008).

<sup>37</sup>South Dakota State Subsidy Profile, <http://www.nacac.org/adoptionssubsidy/stateprofiles/southdakota.html>, (last visited Nov. 16, 2008)

<sup>38</sup> West Virginia Bureau for Children and Families, Adoption Policy, (October 25, 2004), *available at* [http://www.wvdhhr.org/bcf/policy/adoption/Adoption\\_Policy.pdf](http://www.wvdhhr.org/bcf/policy/adoption/Adoption_Policy.pdf).

## VI. The effectiveness of offering subsidy extensions

### A. Data sources

Data on adoption prior to 1995 is both scarce and unreliable.<sup>39</sup> The data used here are public use versions of administrative data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) for 1995 through 2003.<sup>40</sup> The AFCARS adoption data contain information about each child who exited foster care through adoption during a fiscal year. AFCARS data are collected from the states by the Children's Bureau and are arguably the most reliable data ever collected on adoption from foster care. The AFCARS data are supplemented with state demographic data.<sup>41</sup>

### B. Statistical comparison

Table 2 compares the number of adoptions finalized in the average year in states without extensions to the number finalized in states with extensions. States that offer extensions create more adoptions in both absolute numbers and relative to state fertility and population.<sup>42</sup> There were, on average, about

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<sup>39</sup> For information about early adoption data, Stolley, K.S. (1993). Statistics on adoption in the United States. *The Future of Children: Adoption*, 3(1), 26-42. For a description of AFCARS data see Penelope Maza, (1999). Recent data on the number of adoptions of foster children. *Adoption Quarterly*, 3(2), 71-81.

<sup>40</sup> The data are available from the National Data Archive on Child Abuse and Neglect at Cornell University. Data through 2003 have been thoroughly inspected by the authors; more recent data are available but have not yet been inspected. For more on the construction of the data set see Hansen, Mary Eschelbach, *AFCARS Adoption Data Research Briefs*, (2006), available at <http://www.nacac.org/adoptionssubsidy/AFCARSspecialneeds.pdf>.

<sup>41</sup> State demographic data from Hansen, Mary Eschelbach, "Child Welfare Policies and Demographic Characteristics: A Compilation of State-Level Data," Dataset Number 125, available at the National Data Archives on Child Abuse and Neglect.

<sup>42</sup> In the child welfare literature it is common to calculate the adoption rate as relative to the number of children in foster care. While this definition of the adoption rate accounts for differences between states in the rate at which children are removed from and returned to from birth families, it does not account for differences in policies and procedures that lead to

950 adoptions per year in states that offer extensions but just 570 in states that do not extend subsidies. The higher number of adoptions is not solely the result of demographic effects that may increase the demand for adoption, such as size of state or desired family size: There were 11.6 adoptions from foster care for each 1,000 births in states with extensions, compared to 8.7 adoptions per 1,000 births in states without extensions. Similarly, there were about 0.16 adoptions per 1,000 people in the states with extensions compared to 0.12 adoptions per 1,000 persons in states without.

Consider next what happened in the four states that began to offer extensions after 1995. Table 3 shows that about 1,565 adoptions were finalized on average during the years after extensions began to be offered, while only 742 had been finalized on average in the years prior to subsidy extensions. The number of adoptions relative to births more than doubled after subsidy extensions began to be offered, and adoptions per 1,000 persons in the state nearly doubled.

Table 4 shows some characteristics of adoptions from foster care by status of the subsidy extensions. The mean age of children at adoption does not differ much with a policy that allows extensions. Note, however, that this mean may also be affected by other policies or social work practices in the states. Stronger evidence comes from considering the changes in the age at adoption of children adopted in states that began offering extensions only after 1995. These states saw an increase in mean age at adoption (from 6.6 to 7.2 years). Even if adoptions of teenagers do not go up by very much as a result

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active recruitment of a permanent family for children unlikely to be able to return to the birth family; that is, it does not account for differences in concurrent planning. Furthermore, subsidy policies are essentially intended to increase the "demand" for adoption, where demand originates with prospective permanent families, therefore it is more appropriate to consider the number of adoptions from foster care relative to the population and fertility. See Hansen, Mary Eschelbach, & Hansen, Bradley A., "An Economic Analysis of the Adoption of Children from Foster Care," *Child Welfare* 85, 3(May/June 2006), pp. 559-583, and Hansen, Mary Eschelbach, "Using Subsidies to Promote the Adoption of Children from Foster Care," *Journal of Family and Economic Issues* 28, pp. 377-393.



of offering subsidy extensions, extensions are likely to make the difference in the decision to adopt for some families.

Importantly, the number of adoptions completed by foster parents and (especially) by kin is greater in states that offer subsidy extensions. The importance of subsidy extensions in generating adoptions by adults already known to the child cannot be understated.

### *C. Comparison by type of extension offered*

For statistical purposes, the many types of subsidy extensions detailed in Table 1 are condensed into three: (1) no extension past age 19, (2) extension for educational purposes, and (3) extension for young adults with disabilities. Because only New York offers automatic extensions past age 19, that state is excluded from the analysis in this section.

Table 4 shows that extensions for education and disability are both associated with a larger number of adoptions finalized, even after normalizing for size of the state and overall fertility in the state. Extensions of subsidy to support young adults with disabilities are especially effective at increasing overall adoptions and adoption rates. Table 5 shows that extensions for disability are especially important for generating adoptions by kin. Extensions for education and disability are about equally important for increasing the mean age at adoption and the number of adoptions by foster parents.

A multivariate analysis would be desirable because it might show the effect of offering extensions independent of other policy, demographic, and economic differences. A multivariate approach has been used, for example, to show that the larger the average amount of the subsidy at the time of the adoption agreement, the greater the number of adoptions finalized.<sup>43</sup> Unfortunately, in this case the multivariate

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<sup>43</sup> For example: Mary Eschelbach Hansen and Bradley A. Hansen, "An Economic Analysis of the Adoption of Children from Foster Care", *Child Welfare* 85, 3(May/June 2006), pp. 559-583, and Mary Eschelbach Hansen, "Using Subsidies to Promote the Adoption of Children from Foster Care," *Journal of Family and Economic Issues* 28, pp. 377-393, doi: 10.1007/s10834-007-9067-6.

analysis is plagued by multicollinearity. That is, states that offer subsidy extensions also offer higher subsidy amounts and have other generous policies. The independent effect of offering extensions could not, therefore, be reliably estimated.

## **VII. Discussion and Recommendations**

The statistical evidence suggests that providing permanency subsidies until a child turns 21 increases the number of children who leave foster care for adoption or guardianship.<sup>44</sup> Although the available data is limited to adoptions, the results would support similar conclusions regarding guardianship subsidies. Our data is particularly strong as applied to permanent kinship caregivers, the category of individuals for whom guardianships are generally designed.

These results are consistent with the policy considerations discussed in Parts I through IV. Foster children are significantly more likely than other children to have special needs and to remain in school past the age of 18. Foster children are thus more likely than other children to depend financially on any potential permanent caregiver beyond the age of 18, and potential adoptive parents and legal guardians would rationally wonder what support they will have to take care of children at all times that they need support.

Potential adoptive parents or legal guardians also may rationally compare the subsidies available if they seek legal permanency with the subsidies available if they serve as foster parents until the child turns 21. If they can receive financial support until the child turns 21 in the latter situation but cannot in the former, then states create a financial incentive for caregivers to not seek legal permanency. States that provide permanency subsidies in some situations until age 21 reduce that incentive and likely induce some caregivers to seek permanency.

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<sup>44</sup>We do not claim that the statistics, on their own, prove a causal relationship, only that they suggest one. That suggestion is further reinforced by the other policy data points presented.

The greater effect on kinship caregivers is also consistent with existing literature that demonstrates that kinship foster parents are more than twice as likely to have incomes below 200 percent of the poverty line than non-kinship caregivers.<sup>45</sup> Because potential kinship caregivers are more likely to have a greater need for financial supports, one may expect them to be particularly sensitive to changes in subsidy policies.

Given the strength of the data, if policymakers seek to reduce the number of children waiting for adoptive parents and permanent legal guardians, they should work to provide subsidies to adoptive parents and permanent legal guardians of former foster children until those children turn 21. To do so, federal and state policymakers should take several steps. First, Congress should provide federal reimbursements for all adoption subsidies until a child turns 21, not only when a state determines that the child has a “handicapping condition” that “warrants” such support. Absent that federal support, Congress creates a powerful financial disincentive for states to extend subsidies. Second, Congress should provide federal financial support for guardianship subsidies until children turn 21.

Congress recently gave a partial nod to these concerns. The “Fostering Connections to Success and Increasing Adoptions Act of 2008” provides federal financial support for guardianship subsidies, but does not provide federal financial support for all adoption and guardianship subsidies until a child turns 21.<sup>46</sup> The Act does not automatically extend either adoption nor guardianship subsidies until age 21 unless the child was not adopted or did not have a legal permanent guardian until after the child turned 16.<sup>47</sup>

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<sup>45</sup> Jennifer Ehrle Macomber, ET AL., *Kinship Foster Care: Custody, Hardships and Services*, Urban Institute (2003), <http://www.urban.org/publications/310893.html> (last visited 16 May 2008).

<sup>46</sup> Pub. L. 110-351, §§ 101, 201 (2008).

<sup>47</sup> Pub. L. 110-351, § 201(a) (to be codified at 42 U.S.C. § 675(8)(B)(i)(II)-(III))

This 16 year old cut off makes little policy sense. The data described in Part VI demonstrates the significant effect providing subsidies until age 21 can have. That effect did raise the median age of adopted children slightly, but only slightly. That means that offering subsidies until a child turns 21 will lead to benefits for children at all ages, not just those over 16. The 16 year old cut off in the bill as it is currently drafted also creates perverse incentives for lawyers and parties in individual cases to delay final adoptions until youth have crossed the age 16 threshold, thus ensuring a longer-lasting subsidy but delaying permanency and extending the cost to federal, state and local governments of keeping a case open longer than necessary. Congress should amend the adoption and guardianship subsidy scheme and provide federal financial support for adoption and guardianship subsidies until age 21 no matter what age the child entered foster care; at the very least, congress should lower the age limit so the policy change is likely to benefit more children.<sup>48</sup> States should make a similar set of changes to provide adoption and guardianship subsidies until a child turns 21.

States will naturally seek to maximize federal financial support for this change; until the federal government makes the policy changes outlined above, the states can maximize federal support through their definition of which conditions support extension of a subsidy until a child turns 21. Federal law provides that federal funds will support an adoption subsidy until age 21 if “*the State determines that the child has a mental or physical handicap which warrants the continuation of assistance.*”<sup>49</sup> The same standard will apply to guardianship subsidies beginning on October 1, 2010.<sup>50</sup> Crucially, it is the state’s determination that matters for federal funding. That is, federal law gives states the freedom to define which mental or

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<sup>48</sup> Congress might look to the Higher Education Act as a model. It provides that any student who was in foster care at age 13 or older – a somewhat better cut off than age 16 – is an “independent student” and thus eligible for federal financial aid without consideration of her parent’s assets. 20 U.S.C. § 1087vv(d) (2008).

<sup>49</sup> 42 U.S.C. § 673(a)(4)(A) (2008). (emphasis added).

<sup>50</sup> Pub. L. 110-351, § 201(c) (to be codified at 42 U.S.C. § 673(a)(4)(A)(i)(I)).

physical handicaps warrant a federally-supported subsidy until age 21. States should define this category as broadly as is reasonable and thus maximize federal support. (States should use their own funds to provide subsidies until age 21 for those children who do not qualify, even under their own broader definitions.) A broad definition could, for example, list various indicators that a state considers adequate to establish a “physical or mental handicap which warrants extension” of an adoption subsidy. For instance, if the child in question meets *any* of the following criteria, he or she could be defined by states as meeting the standard for federal reimbursement:

- The child has any Axis I, Axis II, or Axis III diagnosis
- The child has a “global assessment of functioning” score under 70
- The child is a “child with a disability” for special education purposes<sup>51</sup>
- The child receives an elevated adoption subsidy or foster care board rate due to any documented disability
- The child has any documented physical handicap
- The parent establishes (through letters from doctors, educators, or any other service provider) that the child exhibits symptoms of a physical or mental condition requiring significant parental attention
- The child will not graduate high school or its equivalent by age 18 due to some academic delays (including having to repeat one or more years of school)

State policymakers will be concerned, of course, with the financial impact of expanding permanency subsidies, especially if federal policies do not change and federal reimbursement is not available for any guardianship subsidy until age 21 or many adoption subsidies until age 21. State

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<sup>51</sup> 20 U.S.C. § 1401(3) (2008).

policymakers should consider three crucial points which will affect their fiscal analysis of our proposed changes.

First, as just described, the federal government will help pay for a significant portion of the cost of expanded subsidies, if states broadly define which conditions “warrant” an adoption subsidy until age 21.

Second, expanded subsidies will lead to many more adoptions and legal guardianships, results which will close many open court cases. These open court cases are extremely expensive; moving these cases towards adoption and legal guardianship will save states the cost of keeping these cases open. For the time being – until October 1, 2010,<sup>52</sup> the savings gained from more cases reaching adoption and legal guardianship will lead to particularly high savings regarding older children who remain in foster care past age 18. Federal financial participation for foster care maintenance payments ceases for many children over age 18 and for all children by age 19.<sup>53</sup>

Third, states will not have to provide a subsidy for every child until the age of 21. Under existing law, parents and guardians who no longer financially support children who have left their homes are ineligible for federally-supported subsidies.<sup>54</sup> Some parents and guardians of children between the ages of 18 and 21 will fall into this category and will reduce the financial cost to states of subsidy extensions.

### VIII. Conclusion

Federal and state support for extensions of subsidies through the age of 21 is likely to increase permanency for children in foster care who cannot return to their birth

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<sup>52</sup> As noted above, Congress recently passed a statute which, beginning on this date, will provide federal financial support for foster care subsidies until foster youth turn 21. Pub. L. 110-351, §§ 201(a) & 201(d) (2008).

<sup>53</sup> Child Welfare Policy Manual § 8.3A.2(1) (November 6, 2008), *available at* [http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp\\_pf.jsp?citID=15](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?citID=15).

<sup>54</sup> 42 U.S.C. § 673(a)(4)(B) (2008).

families. Extensions are reasonable because most of the affected children have special needs that make them even more unlikely than the average child to be financially independent at age 18. The cost savings from permanency is likely to outweigh additional expenses. The benefits of permanency to the children are inestimable.

**Table 1: State Law on Subsidy Extension**

No subsidy extensions	High school or equivalent, age 19	High school or equivalent, age 21	Any school, age 21	Severe disability	Disability (need not receive SSI)	Automatic continuation until age 21	Other
AK, <sup>55</sup> CT, <sup>56</sup> FL, <sup>57</sup> ID, <sup>58</sup> LA, <sup>59</sup> NH, <sup>60</sup> NM, <sup>61</sup> NV, <sup>62</sup> NC, <sup>63</sup> OR, <sup>64</sup> PA <sup>65</sup>	IL (1998), <sup>66</sup> OK (2006), <sup>67</sup> RI, <sup>68</sup> TN (1997), <sup>69</sup> TX (2001), <sup>70</sup> VA, <sup>71</sup> WI <sup>72</sup>	AL, <sup>73</sup> AZ, <sup>74</sup> KS, <sup>75</sup> NJ (2005), <sup>76</sup> TN (until 1997), <sup>77</sup> WA <sup>78</sup>	IN (1997), <sup>79</sup> ME, <sup>80</sup> MA, <sup>81</sup> MI, <sup>82</sup> MN, <sup>83</sup> ND, <sup>84</sup> SC <sup>85</sup>	DC, <sup>86</sup> MN, <sup>87</sup> MO, <sup>88</sup> OK (until 2006), <sup>89</sup> RI <sup>90</sup>	AR (1999), <sup>91</sup> CA, <sup>92</sup> HI, <sup>93</sup> IL, <sup>94</sup> KS, <sup>95</sup> IA, <sup>96</sup> KY, <sup>97</sup> ME, <sup>98</sup> MD, <sup>99</sup> MA, <sup>100</sup> MS, <sup>101</sup> MT, <sup>102</sup> OH, <sup>103</sup> TN, <sup>104</sup> TX (2001), <sup>105</sup> UT (2001), <sup>106</sup> VT, <sup>107</sup> VA, <sup>108</sup> WI, <sup>109</sup> WY <sup>110</sup>	NY <sup>111</sup>	NE (automatic continuation until and termination at age 19) <sup>112</sup>

<sup>55</sup> ALASKA STAT. § 25.23.210 (2008)(adoption subsidy ends when the child reaches the age of majority).

<sup>56</sup> CONN. GEN. STAT. § 17a-117(a) (2008) (subsidy for medical care can extend until 21, but adoption subsidy may only extend until 18).

<sup>57</sup> FLA. STAT. § 409.166(4)(b) (2008)

<sup>58</sup> IDAHO CODE ANN. § 56-805(2) (2008)

<sup>59</sup> LA. ADMIN. CODE tit. 67 § 4901 (2008)

<sup>60</sup> N.H. REV. STAT. ANN. § 170-F:7 (2008)

<sup>61</sup> N.M. STAT. ANN. § 32A-5-45(B) (2008) (subsidies end at 18 except for “medically fragile” children.) The narrow medically fragile exception was not enacted until 2005. 2005 N.M. LAWS 189 §73.

<sup>62</sup> NEV. REV. STAT. § 127.186(6) (2008)

<sup>63</sup> N.C. ADMIN. CODE tit. 10A r. 70M.0402.

<sup>64</sup> OR. REV. STAT. § 418.330(2) (2007)

<sup>65</sup> 55 PA. CODE § 3140.204(e)(1) (2008)

<sup>66</sup> ILL. ADMIN CODE tit. 89 § 302.210(h)(7); 22 ILL. REG. 7140, 7151 (April 13, 1998)

<sup>67</sup> OKLA. STAT. ANN. tit. 10, § 7510-1.5(D)(4) (2008), 2006 OKLA. SESS. LAWS 258 § 7.

<sup>68</sup> Rhode Island Department of Children, Youth and Families Policy and Procedure Manual, Policy 700.0090 (September 2, 2003), *available at* [http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DCYF/DCYF\\_2578.pdf](http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DCYF/DCYF_2578.pdf).

<sup>69</sup> Administrative Policies and Procedures, 15:11 Adoption Assistance (2008), *available at* <http://state.tn.us/youth/dcsguide/policies/chap15/15.11.pdf>. ; Policy



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Attachment, Criteria for Documenting Full-Time School Attendance for Youth 18, 19, and 20 Years of Age, <http://state.tn.us/youth/dcsguide/policies/chap15/CriteriaDocSchoolAttend.pdf>.

<sup>70</sup> TEX. FAM. CODE ANN. § 162.3041 (2007) (permitting extension until age 21 if the child “has a mental or physical disability that warrants the continuation of that assistance” or until age 19 if the child remains in a high school or vocational program).

<sup>71</sup> 22 VA. ADMIN. CODE § 40-260-20(H)(1) (2008)

<sup>72</sup> WIS. ADMIN. CODE HFS § 50.06(3)(a)(2) (2008)

<sup>73</sup> ALA. CODE § 26-10-26 (2008)(permitting subsidy to extend past age 18 if the child “is in school or in training in a program, the purpose of which is to aid him toward self-support”).

<sup>74</sup> ARIZ. REV. STAT. ANN. § 8-144 (b) (2008) (permitting subsidy to continue until age 21 if the child remains in high school).

<sup>75</sup> Kansas Child and Family Services, Policy and Procedure Manual § 6210 (July 2008), *available at* [http://www.srskansas.org/CFS/cfp\\_manuals/ppmmanuals/ppm\\_manual/ppm\\_sections/SECTION%206000.htm](http://www.srskansas.org/CFS/cfp_manuals/ppmmanuals/ppm_manual/ppm_sections/SECTION%206000.htm).

<sup>76</sup> N.J. STAT. ANN. § 30:4C-47 (2008) (permitting extension if the child is enrolled in “a secondary school or its equivalent”); 2005 N.J. LAWS 169 § 12.

<sup>77</sup> Administrative Policies and Procedures, 15:11 Adoption Assistance (2008), *available at* <http://state.tn.us/youth/dcsguide/policies/chap15/15.11.pdf>. ; Policy Attachment, Criteria for Documenting Full-Time School Attendance for Youth 18, 19, and 20 Years of Age, <http://state.tn.us/youth/dcsguide/policies/chap15/CriteriaDocSchoolAttend.pdf>.

<sup>78</sup> WASH. ADMIN. CODE § 388-27-0210 (2008) A Washington official confirmed that this policy had been in place since 1991 if not sooner. Telephone conversation between Kirstin O’Connor and Lonnie Locke.

<sup>79</sup> IND. CODE ANN. § 31-19-26-4; 1997 IND. ACTS 1 § 11. In 2008 – too recently to have an affect on our data pool – Indiana enacted a law also providing subsidies until age 21 for children with “a physical, a medical, a mental, or an emotional condition that limits or prevents the child from becoming elf-supporting.” Ind. PL. 146 (2008).

<sup>80</sup> 10-148-013 ME. CODE R. § 5(g) (2008)

<sup>81</sup> 110 MASS. REG. CODE 7.209(13)(a) (2008) The Massachusetts regulations provides for subsidy extensions in “exceptional circumstances.” Massachusetts officials have reported that “exceptional circumstances” include enrollment in a full-time educational program. <http://www.nacac.org/adoptionssubsidy/stateprofiles/massachusetts.html>.

<sup>82</sup> MICH. ADMIN. CODE r. 400.115j(2) (2008) (permitting extension if the child continues to attend high school, college, or vocational program).

<sup>83</sup> Minn. Admin. Code §9560.0091 (Supb.5)(B) (2007)

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<sup>84</sup> N.D. CENT. CODE § 50-09-02.2 (2008)

<sup>85</sup> 114 S.C. REGS. 4380(B)(4).

<sup>86</sup> While the District of Columbia statute suggests that eligibility for any subsidy may end when a child turns 18, D.C. Code § 4-301(e) (2008), the District's child welfare agency has a policy of granting subsidies when a child has a "severe mental or physical handicapping condition." Child and Family Services Agency Policy Manual, on file with author.

<sup>87</sup> Minn. Admin. Code §9560.0091 (Supb.5)(B) (2007) (requiring a disability severe enough to render the child "incapable of self sustaining employment").

<sup>88</sup> MO. CODE REGS ANN., tit. 13 § 40-38.020(3)(D) (providing subsidy extension only if the child has a condition that "requires extraordinary treatment or rehabilitative services").

<sup>89</sup> 2006 OKLA. SESS. LAWS 258 § 7. (noting prior law).

<sup>90</sup> Rhode Island Department of Children, Youth and Families Policy and Procedure Manual, Policy 700.0090 (September 2, 2003), *available at* [http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DCYF/DCYF\\_2578.pdf](http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DCYF/DCYF_2578.pdf).

<sup>91</sup> ARK. CODE ANN. § 9-9-410(c) (2008) (permitting subsidy to extend until 21 if the child's condition prevents him from "existing independently from the adoptive family"); 1999 ARK. ACTS 945 § 7. Arkansas's subsidy extension policy is explicitly designed for children whose condition is less severe than what is required to establish eligibility for Social Security disability payments; the same statute provides that the subsidy extensions shall be reserved for those denied SSI benefits, ensuring that either the child would receive SSI benefits or his parents would receive an adoption subsidy. *Id.*

<sup>92</sup> CAL. WELF. & INST. CODE § 16120(d) (2008) (permitting subsidy extension if the child "has a mental or physical handicap that warrants the continuation of assistance").

<sup>93</sup> HAW. CODE R. § 17-944.1-13 (2008).

<sup>94</sup> ILL. ADMIN CODE tit. 89 §302.310(g)(7) (2008)

<sup>95</sup> Kansas Child and Family Services, Policy and Procedure Manual § 6210 (July 2008), *available at* [http://www.srskansas.org/CFS/cfp\\_manuals/ppmmanuals/ppm\\_manual/ppm\\_sections/SECTION%206000.htm](http://www.srskansas.org/CFS/cfp_manuals/ppmmanuals/ppm_manual/ppm_sections/SECTION%206000.htm).

<sup>96</sup> IOWA ADMIN. CODE r. § 441-201.2, 441-201.2 (2008).

<sup>97</sup> 922 KY. ADMIN. REGS. 1 :050 § 5 (3)(b) (2008)

<sup>98</sup> Kentucky requires the child both to have a disability and to be enrolled in a secondary or post-secondary education program. *Id.*; 10-148-013 ME. CODE R. § 5(g).

<sup>99</sup> MD. CODE REGS. § 07.02.12.15(A)(4) (if the child has a disability and does not receive SSI).

<sup>100</sup> 110 MASS. CODE REGS § 7.209(13)(a) (2008) The Massachusetts regulations provides for subsidy extensions in "exceptional circumstances." Massachusetts officials have reported that "exceptional

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circumstances” include the presence of a “documented special need.”  
<http://www.nacac.org/adoptionssubsidy/stateprofiles/massachusetts.html>.

<sup>101</sup> 11-111-001 MISS. CODE R. § (3) (2008).

<sup>102</sup> MONT. CODE ANN. § 42-10-108 (2008) (permitting an extension if the child has “a mental or physical handicap”). Montana’s statutory language is noteworthy because it omits the phrase “which warrants the continuation of assistance” that appears in the federal statute and some state statutes. Montana has thus expanded the breadth of its subsidy program beyond what federal law states.

<sup>103</sup> OHIO ADMIN. CODE 5101:2-44-06(A)(3)(b) (2008) (permitting subsidy extensions for children “mentally or physically handicapped as diagnosed by a qualified professional”).

<sup>106</sup>Administrative Policies and Procedures, 15:11 Adoption Assistance (2008), *available at* <http://state.tn.us/youth/dcsguide/policies/chap15/15.11.pdf>

(Policy Attachment, Criteria for Documenting Full-Time School Attendance for Youth 18, 19, and 20 Years of Age, <http://state.tn.us/youth/dcsguide/policies/chap15/CriteriaDocSchoolAttend.pdf>

<sup>105</sup> TEX. FAM. CODE ANN. § 162.3041 (2007) (permitting extension until age 21 if the child “has a mental or physical disability that warrants the continuation of that assistance” or until age 19 if the child remains in a high school or vocational program).

<sup>106</sup> UTAH CODE ANN. . § 62A-4a-906(2) (permitting an extension until age 21 “due to mental or physical disability”); 2001 UTAH LAWS 115 §7. Like Montana, the Utah statute omits the phrase “which warrants the continuance of assistance” which appears in the federal statute, thus expanding the breadth of its program.

<sup>107</sup> 13-163-002 VT. CODE R., § 5035.8.

<sup>108</sup> 22 VA. ADMIN. CODE § 40-260-20(H)(1).

<sup>109</sup> WIS. ADMIN. CODE HFS § 50.06(3)(a)(2) (2008)Wisconsin requires a child to be both disabled and to continue attending high school or its equivalent to extend the subsidy to age 21.

<sup>110</sup> 049-040-001 WYO.CODE R.§ 7(i)(i) (2008)

<sup>113</sup> N.Y. SOC. SERV. LAW § 453(1)(a) (2008)

<sup>114</sup> 390 CH. 6 NEB. ADMIN. CODE § 003.03F7(3)

**Table 2: Adoptions in States with and without Subsidy Extensions**

	Adoptions with Agency Involvement	Adoptions per 1,000 Births	Adoptions per 1,000 Population	State- Years Observed
<i>All States with Data on Extensions, 1995-2002</i>				
No Extensions	569.6 (582.3)	8.72 (5.90)	0.122 (0.080)	70
Extensions	949.3* (1500.8)	11.6* (8.04)	0.158 (0.103)	228

Notes: Standard deviations in parentheses. \* indicates that the difference is statistically significant at the one percent level.

Sources: See text.

**Table 3: Adoptions in States that Enacted Extensions after 1995**

	Adoptions with Agency Involvement	Adoptions per 1,000 Births	Adoptions per 1,000 Population	State- Years Observed
<i>Six States that Began Extensions between 1995 and 2001</i>				
Before Extensions	741.9 (934.9)	5.1 (4.0)	0.090 (0.067)	17
After Extensions	1564.6* (1928.6)	11.5* (9.1)	0.175 (0.136)	25

Notes: Standard deviations in parentheses. \* indicates that the difference is statistically significant at the one percent level.

Sources: See text.

**Table 4: Characteristics of Adoptions by Extension Status**

	Mean Age at Adoption	Adoptions by Foster Parents	Adoptions by Kin	State- Years Observed
<i>All States with Data on Extensions, 1995-2002</i>				
No Extensions	6.6 (0.7)	278.2 (300.9)	87.6 (106.9)	70
Extensions	6.9* (1.1)	503.6** (952.7)	160.9** (520.3)	228
<i>Six States that Began Extensions between 1995 and 2001</i>				
Before Extensions	6.6 (0.8)	557.9 (825.1)	73.1 (129.4)	17
After Extensions	7.2* (0.8)	1272.2** (2003.1)	90.1** (154.3)	25

Notes: Standard deviations in parentheses. \* indicates that the difference is statistically significant at the five percent level.

\*\* indicates that the difference is statistically significant at the one percent level.

Sources: See text.

**Table 5: Adoptions by Type of Extension**

	Adoptions with Agency Involvement	Adoptions per 1,000 Births	Adoptions per 1,000 Population	State- Years Observed
No Extensions	569.6 (582.3)	8.72 (5.90)	0.122 (0.080)	70
Extensions for Education	861.64* (1088.1)	11.36* (7.33)	0.156 (0.099)	127
Extensions for Disability	922.25* (1612.43)	12.20* (8.78)	0.164 (0.111)	156

Notes: Standard deviations in parentheses. \* indicates that the difference (compared to no extensions) is statistically significant at the one percent level.

Sources: See text.

**Table 6: Characteristics of Adoption by Type of Extension**

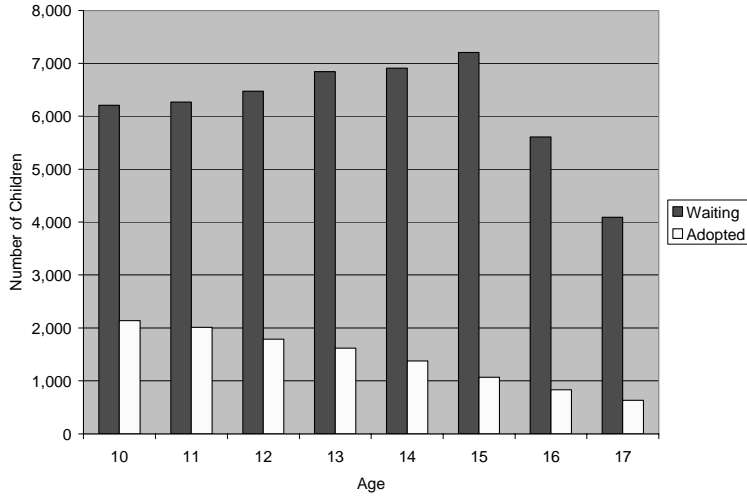
	Mean Age at Adoption	Adoptions by Foster Parents	Adoptions by Kin	State- Years Observed
No Extensions	6.6 (0.70)	278.2 (300.9)	87.6 (106.9)	70
Extensions for Education	6.7 (0.91)	588.4* (1035.4)	113.5* (203.0)	127
Extensions for Disability	6.8 (0.86)	584.6* (1110.8)	180.9* (606.1)	156

Notes: Standard deviations in parentheses. \* indicates that the difference (compared to no extensions) is statistically significant at the one percent level.

Sources: See text.



**Figure 1: Number of Waiting & Adopted Children by Age**



**Notes:**

Waiting=Number of waiting children in care on September 30, 2006.

Adopted=Number of children with adoption finalized in fiscal year 2006.

**Source:**

[http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/tar/report14.htm](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report14.htm)