



Juvenile court pathways to legal permanence for children in substitute care



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ARTICLE INFO

Article history:

Received 22 August 2013

Received in revised form 11 November 2013

Accepted 11 November 2013

Available online 20 November 2013

Keywords:

Juvenile court

Reunification

Adoption

Guardianship

Foster care

Child characteristics

ABSTRACT

Using administrative data describing the contemporaneous substitute care and juvenile court histories of 8116 children entering substitute care in Cook county Illinois, this study examines children's pathways to legal permanence. Specifically, by parsing children's exit to permanence by its constituent legal milestones, and examining the extent to which variability in the rates of these milestones are attributable to the court calendar (i.e., judge) and child levels, respectively, this study attempts to pinpoint the primary sources of variability in children's pathways to legal permanence. Results suggest that the transitions between certain legal milestones (e.g., disposition to reunification, disposition to TPR) account for a majority of the variability in children's exit to permanence. Results also suggest that a moderate amount of variability in permanency rates is attributable to court calendars, but that the magnitude of calendar-level influence varies considerably across legal milestone transitions; for some transitions (e.g., TPR to adoption finalization), calendar-level influence is effectively zero, whereas for other transitions (e.g., entry to dispositional order), calendar-level influence seems to eclipse the influence of observed child-level characteristics. Implications for child welfare and juvenile court scholarship, policy, and practice are discussed.

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1. Introduction

Juvenile dependency courts are responsible for overseeing and sanctioning a state's mandate to intervene in cases of child maltreatment. Dependency courts are charged with reviewing removal and placement decisions, adjudicating dependency petitions, and establishing permanency plan goals and the respective responsibilities of parents and agencies. Dependency courts are also responsible for reviewing case progress and determining whether reasonable efforts have been made to help parents meet the goals described in their case and permanency plans. Finally, dependency courts preside over termination of parental rights and adoption finalization proceedings, and are responsible for deciding if children can be returned to the custody of their parents. In sum, dependency courts are responsible for ensuring timely permanence and safety, while at the same time safeguarding the due process rights of parents, children, and other parties with legal standing.

Over the last half century, the responsibility vested in the court has steadily increased in scope and become more formalized. This increase in purview was precipitated by concerns that state child welfare agencies were not achieving permanency in a timely manner, nor safeguarding the rights of parents and children. However, as scholars have argued, the increased involvement of the dependency court has itself served to delay children's exit to permanence (e.g., Rycus, Freundlich, Hughes, Keefer, & Oakes, 2006). That is, the formalized and deliberative

nature of court proceedings, as well as delays borne of large dependency court caseloads and staff turnover (Hardin, 1996; U.S. GAO, 1999), may have compounded the very problems that court oversight was meant to ameliorate.

Reflecting these concerns, individual states as well as the federal government have undertaken a variety of efforts to improve court functioning generally and to expedite exits to permanence more specifically. At the same time, recent federal initiatives, such as the Court Improvement Program, the Child and Family Services Review, and the Adoption and Safe Families Act, have stressed the importance of measuring court performance. In response to these initiatives, the National Council of Juvenile and Family Court Judges, along with the American Bar Association and the National Center for Juvenile Courts identified and developed specific outcome measures and benchmarks to assist courts in assessing their performance with respect to permanence, safety, timeliness, and due process.

Yet, there is limited existing evidence directly supporting these reform efforts. First, there have been no studies that have examined the relative importance of the various legal milestones that constitute children's pathways to permanence. However, within the context of the dependency court, timely exit to permanence rests on the timely achievement of these intermediate legal milestones. Thus, understanding children's legal transition to permanence requires an understanding of children's transitions between these various milestones. Although some select studies have examined individual milestones (e.g., rate of adoption finalization after TPR, Barth, Courtney, Berrick, & Albert, 1994; Festinger & Pratt, 2002), these studies do not inform our

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understanding of the relative importance of each legal milestone vis-à-vis children's overall transition to permanence, nor the extent to which differences in permanency rates across child and family subpopulations are a function of differences in the rates of transition for specific legal milestones.

The second limitation of existing child welfare and juvenile court scholarship is that few, if any, studies have empirically examined the degree to which various juvenile court parties (e.g., judges, court staff, attorneys) influence children's court outcomes (Courtney & Hook, 2012; Zinn & Slowriver, 2008). This is an important omission because court improvement program efforts, at least implicitly, attempt to influence the behavior of these parties, based on the presumption that they constitute controlling influences on children's transitions to permanence.

2. Purpose of current study

In order to better inform court-based efforts to expedite children's transition to permanence, the current study seeks to deconstruct children's pathways to permanence by their constitute legal milestones, and to examine the extent to which the variability in the rates of these milestones are attributable to the court calendar (i.e., courtroom) vs. child level. Specific research questions addressed by this study include:

- (1) To what extent is the variability in the rate of children's exit to permanence attributable to:
 - (a) variability in the rates of specific dependency case legal milestones (e.g., entry to dispositional order);
 - (b) child and court calendar levels, respectively; and
 - (c) specific milestone-by-level combinations (e.g., calendar-level influence during the transition from entry to dispositional order)?
- (2) To what extent are differences in the rates of permanency exit across child characteristics attributable to differences across child characteristics in the rates of specific dependency case legal milestones?

3. Method

3.1. Sampling frame and data structure

The study sample includes all children who entered court-supervised substitute care before the age of 17 during calendar years 2000 through 2005 under a protective dependency order issued by the Cook County Juvenile Court ($N = 8116$). These protective custody orders were issued, and children removed from their homes, as a result of safety concerns discovered during an Illinois Department of Children and Family Services investigation of alleged maltreatment.

Upon removal, children's dependency cases were assigned to one of 13 distinct court calendars (i.e., courtrooms) based on the location of the home from which the child was removed. During the observation period, the number of new court cases per calendar ranged from 524 to 930, with a median of 665. Because the Cook County Juvenile Court used direct calendaring, a child's dependency case was overseen by the same judge for the entirety of the child's dependency case (i.e., from temporary custody to exit from care). As a result, the structure of the court data used for this study are strictly hierarchical, with children's dependency cases nested within a single court calendar.^{1 2}

¹ In addition to a juvenile court judge, court calendars typically consisted of support staff, an assistant attorney general, and an attorney from the Office of the Cook County Public Guardian.

² Where children's dependency cases were transferred to a different calendar ($N = 244$), children's records are censored in these data in order to avoid cross-classification of calendars.

3.2. Data

The data used for this study come from three distinct data systems: the Illinois Department of and Family Services' Child Abuse and Neglect Tracking System (CANTS) and Child and Youth Centered Information System (CYCIS) databases, and the Cook County Clerk's Office Juvenile Court Database. The CANTS and CYCIS databases, collectively, contain information about children's child welfare service cases, including children's demographic characteristics and maltreatment investigation and substitute care histories. The Cook County Clerk's Office Juvenile Court Database contains data concerning children's dependency court cases, including the timing and disposition of children's legal milestones and status changes. Based on identifying information contained in these data systems (i.e., child name, date of birth, and the dates of children's dependency case filing and substitute care spells), Illinois Department of Children and Family Services and Cook County Juvenile Court cases were linked via a combination of deterministic and probabilistic matching.³

3.3. Included variables

The Illinois Department of Children and Family Services CYCIS data system contains records of children's demographic characteristics, including date of birth, race/ethnicity, and gender. CYCIS also contains the start and end dates, discharge destination types, and unique placement (i.e., facility) ID for children's substitute care placements. Placements type categories include home of relative (i.e. kinship foster family care), traditional non-relative foster family care, treatment foster family care, residential care, and a small number of other placement types. Discharge destination type categories include transfer to different placements types as well as several modes of exit from care. These include exit to home of parent (i.e., reunification), home of adoptive parent (i.e., adoption finalization), subsidized guardianship, runaway or transfer to other service system, and legal emancipation after reaching the age of majority. The Illinois Department of Children and Family Services data also include a unique family ID for each child, which allows for the determination of whether a child has one of more siblings in care.

The Illinois Department of and Family Services CANTS data system contains records of the maltreatment allegation type associated with the investigation that preceded children's entry to care. These include abuse (i.e., physical and emotional abuse), neglect (i.e., physical neglect, lack of supervision, environmental neglect, risk of harm), substance exposure (i.e., positive prenatal drug screen or environmental exposure to drug use), and sexual abuse.

Finally, the Cook County Juvenile Court database contains the dates of children's initial dependency case filings, dispositional orders, and termination of parental rights (TPR) orders. Dispositional orders describe the Juvenile Court's determinations about the need for continued placement and the conditions under which a child can be returned home. TPR orders permanently sever parents' legal guardianship of their children, and are a prerequisite for adoption finalization.⁴

3.4. Analytic approach

An important objective of the current study is to examine the extent to which variation in children's permanency rates are attributable, respectively, to (1) different stages in the dependency-court legal process and (2) phenomena operative at the courtroom, versus, child level. To accommodate this objective, we first parse children's permanency

³ Probabilistic record matching determines a weighted match probability based on the level of agreement between standardized data fields common to both data sources. Matches are deemed satisfactory when the match probability exceeds some predetermined value.

⁴ TPR petitions are filed separately for each parent. In these analyses, we used the date on which children's mother's rights were terminated.

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