



APSAC ALERT

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Is Adoption Really More Stable than Guardianship as a Permanency Option for Children in Foster Care?

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When children are removed from the home because of child maltreatment, child welfare service agencies aim to return them to a safe and permanent home as soon as possible. The Social Security Act (1997), as amended by the Federal Adoption and Safe Families Act of 1997 (1997), requires states receiving federal funds for foster care to hold a permanency hearing within 12 months of removal. The preferred permanency goal is reunification with the child's original caregivers if it can be done safely, but other permanency options are pursued if it is not safe for the child to return home. A priority is finding a permanent placement that is stable for the youth so they can have a family they can count on and do not experience more disruptions. This APSAC Alert focuses on two permanency options when children cannot be reunified: adoption and guardianship. With adoption, the youth's biological parents' rights are terminated, and the substitute caregiver becomes the adoptive parent (see, e.g., Gupta-Kagan, 2015; Testa, 2004a,b; Testa, 2021). It is legally binding, and only under limited circumstances can the adoptive parents undo the adoption (see, e.g., Freundlich & Peterson, 1998; Palacios, Rolock, Selwyn, & Barbosa-Ducharne, 2018). With guardianship, the substitute caregiver becomes the permanent guardian,

but the biological parents retain certain rights such as visitation with the child. Caregivers can petition juvenile court to undo the guardianship without being indicated for neglect.

For many years, adoption has been preferred, largely because of a belief that adoption is more stable and lasting than guardianship (Testa, 2004a,b; Testa, 2021). This APSAC Alert questions whether this supposed difference should be a factor in permanency decision-making, based on empirical data that show negligible differences in stability between adoption and guardianship once differences in child and family characteristics are taken into account. It also considers data on adoption instability that are not captured in child welfare agency records and therefore may be hidden from juvenile court oversight but should nonetheless be taken into account when permanency options are considered. This Alert is adapted in part from a report that discusses the lessons learned from a research program studying adoption and guardianship among children in substitute care, particularly Black youth (Cross, et al., 2024).

With both adoption and guardianship, a permanent caregiver other than the birthparents takes custody of the child (Gupta-Kagan, 2015; Testa, 2004a,b,

2021). Almost always, it is the caregiver providing care while children are in state custody who becomes the permanent caregiver as the culmination of a permanency plan. The child welfare agency is relieved of responsibility for the care and custody of the child. The substitute caregiver can either be an approved relative such as a grandparent, uncle, aunt who provides kinship care or an unrelated adult who provides licensed foster care. Kinship placements can also be with so-called approved fictive kin: adults with existing ties to the family such as godparents and close acquaintances - who abide by kinship norms. Both Federal policy (Safe and Appropriate Foster Care Placement Requirements for Titles IV-E and IV-B, 2023) and statutes in almost all states (Child Welfare Information Gateway, 2023) state a preference for choosing substitute care child placements with family members or fictive kin. Research indicates that children placed in kinship care feel greater family connectedness (Hassall, et al., 2021) and have more stable placements than children placed in unrelated foster care (e.g., Courtney & Prophet, 2011). The preference for kinship placements has resulted in substantially more children being initially placed with relatives nationally in FY2023 (74,208) than with non-relatives (52,482) (Children's Bureau, 2025).

The distinction between kin and non-kin foster caregivers is often important when choosing between adoption and guardianship (Gupta-Kagan, 2015; Testa, 2004a,b, 2021). Both kin and non-kin caregivers are eligible to adopt a child living with them in foster care. However, many kin caregivers are uncomfortable with becoming an adoptive parent. Kin caregivers, who are mostly grandmothers, grandfathers, aunts or uncles, often recoil from being recast in the role of "Mom" or "Dad", which adoption formalizes by reissuing the birth certificate and otherwise implies. They often reject terminating the parental rights of the child's mother and father, who may be the kin caregiver's daughter, son, sister or brother. They may feel that the trauma of legal disconnection from birthparents and siblings is an injury to the child and the family as well as the parents. The kin caregivers may also harbor hopes that the parents will eventually overcome the problems that block reunification (e.g., drug

addiction), and be able to regain custody and resume parenting, which is possible with guardianship but challenging with adoption.

For these reasons, guardianship is more acceptable to many kin caregivers (Gupta-Kagan, 2015; Testa, 2004a,b; Testa, 2021). Though we lack national data on the characteristics of guardianships established as a permanency option in child welfare, those guardianships that are established are frequently in kin families (Bissell & Miller, n.d.). The fact that in guardianship the parents' rights do not need to be terminated can help protect the relationship of the kin caregiver and the parent, to the child's benefit. The fact that parents can visit, even though they no longer have custody or can safely care for the child, can also benefit the child. Many kin caregivers also appreciate that, with guardianship, the child's original parents can later petition the court to regain custody of their children. Note that all the people mentioned in this paragraph to this point are kin who are likely to love each other and want the best for each other. Although many kin caregivers support guardianship and the parental visitation that usually accompanies it, other kin caregivers view the parent as unsafe because of such factors as mental illness, substance abuse, and partner violence; even though the parent is a relative. Kin caregivers may want to shield the child from the parent. For these reasons, they may support termination of parental rights and adopt the child (Landa et al., 2023). A careful assessment with substantial input from the family should enable juvenile and family courts to make the right permanency choice for a given child and family.

The argument for guardianship as a permanency option is based on the strengths of the extended family and the value to the child and family of maintaining some parental rights for the original parents. The chief arguments against guardianship as a permanency option are based largely on the reality that guardianship is not as legally binding as adoption (National Council of Juvenile and Family Court Judges, 2000). This means that it is more difficult for an adoptive parent to terminate custody. However, as we explain below, just because adoption is more difficult to vacate than guardianship does not mean that a youth is more likely to be stable in an adoptive home than in a guardian home. Moreover,

there are unstable adoptions that are not measured in the child welfare system. Defenders of guardianship argue that the relationship between the child and guardian, typically based on kinship ties, provides the lasting bonds that maintain stable guardianships (e.g., Testa, 2004b).

Law, Policy, and Belief Favoring Adoption

Guardianship has been used as a permanency option in child welfare for decades, but both law and policy statements have favored adoption over guardianship when reunification is not possible. This is based largely on a belief that adoption is more stable than guardianship because adoption is legally binding. Both the federal Adoption Assistance and Child Welfare Act of 1980 and the federal Adoption and Safe Families Act of 1997 (ASFA) enabled states to use federal funds to support adoptive parents of foster children, but not caregivers who are guardians (Testa, 2004a,b). Federal legislation in 2008 that provided financial support for subsidized guardianship restricted this to licensed relative guardians who had provided foster care to the child and required that adoption be ruled out as inappropriate before families were eligible for federal funds for subsidized guardianship (Testa, 2021). In a report to Congress, the federal Children’s Bureau (2000) stated, “guardianship does not provide the same protections against later, unexpected changes in custody that adoption does and may be seen as less than a total commitment to permanency (p. 50)”.

The Adoption and Permanency Guidelines of the National Council of Juvenile and Family Court Judges (2000) states a clear preference for adoption over guardianship, even if it means taking the child out of their kinship home where they may have been living with relatives for years to go to a strange, new pre-adoptive home:

The first preferred option for permanency is reunification with the biological parents. The next preferred option is adoption by the relative or foster family with whom the child is living. The next preferred option is adoption by an appropriate family with whom the child has a positive existing

relationship (but is not living with) – that is, a relative, former foster parent or adopting family of a sibling. The next preferred option is recruitment of a new family who will adopt the child. Permanent guardianship or permanent custody is the final preferred option for permanency when adoption is not possible or exceptional circumstances exist, but only if the relationship meets the legally secure components described in the next section (p. 14).

Research with permanency professionals has found that many believe that adoption is more stable than guardianship. Testa (2010) found that 56% of Milwaukee caseworkers, 35% of Illinois caseworkers, and 30% of Tennessee caseworkers disagreed or strongly disagreed with the statement “Guardianship is just as permanent as adoption.” A later survey of Illinois permanency caseworkers and supervisors found that 60% of respondents agreed that adoption provided greater assurance of having a permanent home for children under the age of 14; 3% thought that guardianship did so (Fox, et al., 2023). On the other hand, 31% of respondents chose “no difference or depends on the situation”. The difference was less stark for youth over the age of 14 years: 44% of respondents felt that adoption provide greater assurance of having a permanent home for these youth, 9% thought guardianship did so, and 38% chose “no difference or depends on the situation”. Cross and colleagues (2023) also conducted semi-structured interviews with 49 permanency professionals, including not only caseworkers and supervisors, but also judges, guardians ad litem, and attorneys working for the state child welfare agency. This study found a range of opinions among these interviewees on the stability of adoption versus guardianship. Judges were particularly likely to think that adoption was more stable. Interestingly, interviewees in Cross et al. (2023) were by and large not aware of the research on the stability of adoption and guardianship, which we discuss in the next section.

Cohen (2004) described a practice in which Illinois caseworkers focused efforts on securing adoption in cases where reunification was not possible. These caseworkers would not inform caregivers that guardianship was an option until all possibility of adoption had been ruled out, leaving many families

in the dark about this option for permanency. Caseworkers justified this in terms of implementing the guideline of ruling out adoption. The process of ruling out adoption was also sometimes used as justification to remove a child from a relative placement to a non-relative caregiver who would be willing to adopt the child. In some cases, this process has not been transparent, and families were not made aware of guardianship as a permanency option (Cohen, 2004).

Research on the Stability of Adoption and Guardianship as Permanency Options

Ultimately, it is an empirical question whether adoption and guardianship differ in stability. This Alert examines empirical data from the interactive Data Center at the Children and Family Research

Center at the University of Illinois at Urbana-Champaign (Children and Family Research Center, n.d.) and from research studies.

DCFS Client Data

For this Alert, Figures 1, 2 and 3 were constructed using six years of data available from the Data Center. The figures show the rates at which children in adoption and guardianship had reentered care of the Illinois Department of Children and Family Services (DCFS) by the end of the follow-up period or by the time they turned 18, whichever came first. Despite some limitations, this is a useful indicator of stability. Changes in guardianship outside of DCFS were not counted. If a birthparent regained custody from the guardian in court, for example, it was not counted as an unstable guardianship in the below statistics.

Figure 1: Stability of Adoption and Guardianship Over Two Years in Illinois

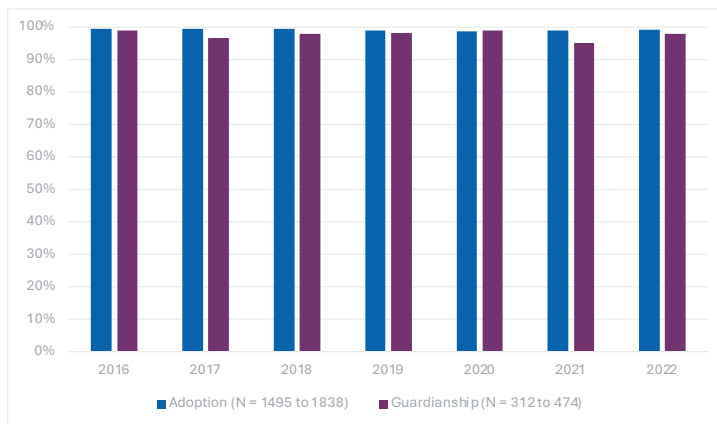


Figure 2: Stability of Adoption and Guardianship Over Five Years in Illinois

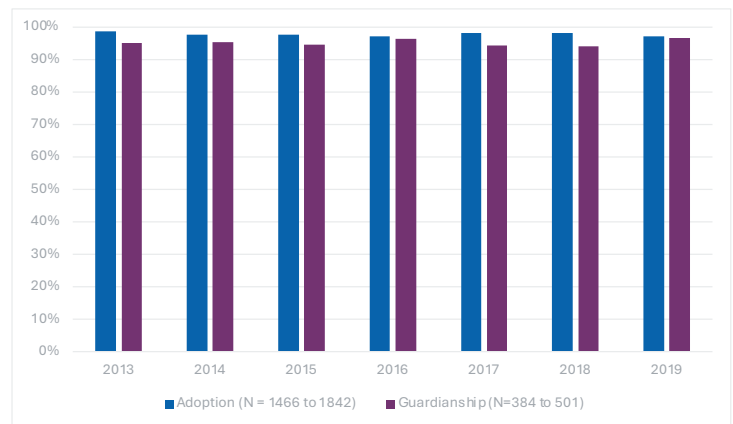
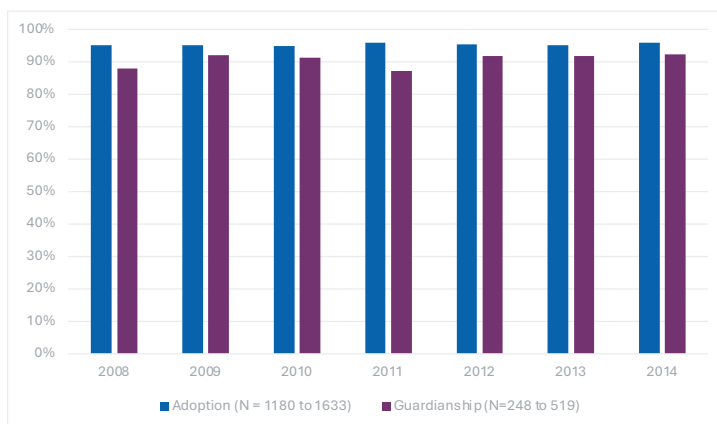


Figure 3: Stability of Adoption and Guardianship Over Ten Years in Illinois



As Figures 1, 2 and 3 illustrate, the vast majority of both adoptions and guardianship were stable by this measure, even at the ten-year follow-up point. The stability rates are somewhat lower for guardianship at each time period, with the difference between adoption and guardianship increasing somewhat as the time interval increases. Note, however, that the differences are almost always small. Common sense indicates that such small differences should not play a large role in such a life-changing decision; other factors related to the specific needs of a given child and their specific family situation should take precedence.

However, even these small statistical differences in stability between adoption and guardianship are misleading, because the children and youth placed in guardian homes differ from those placed in adoptive homes, as do the characteristics of their cases. Rolock and White (2017) conducted a sophisticated statistical comparison of adoption and guardianship in Illinois. They found that youth placed in guardian homes were almost two years older, on average, than children in adoptive homes, were more likely to be in placement with siblings, and were slightly more likely to be Black.

There are several reasons why youth in guardian homes are older than youth in adoptive homes. Koh and Testa (2008) found that children in kinship care, the source for most guardianships, were more likely to be older than children in non-kin foster care. Many professionals envision permanent guardianship as an option mostly for older youth (Cross, et al., 2023; Fox, et al., 2023). Also, the fact that youth aged 14 and older in foster care are entitled to veto adoption in Illinois (Cross, et al., 2023) shifts the age distribution of guardianship toward older youth. These youth can also veto guardianship but may be less likely to do so because guardianship does not involve terminating their parents' rights. Older youth in a substitute care placement are more likely to assert their wishes and influence decision-making, and they are also more likely to have emotional and behavioral problems that might lead to a disruption of a guardianship. The differences in age between youth in guardian and adoptive homes could explain much of the difference in stability between these two permanency options. In addition, it is also

problematic to compare guardianship and adoption because many children who go to guardian homes have no prospects for being adopted because no adoptive parent is available, the youth refuses adoption, or other reasons. If these children had not been placed in guardian homes, they would not be adopted, so it is not sensible to compare them to children in adoptive homes as if this were truly an alternative for these children.

Research Studies

A British study did not directly compare adoption and guardianship but found that the national adoption disruption rate was 3.2% over a 12-year period while the national disruption rate for guardianship over a 5-year period was 5.7% (Selwyn, et al., 2014). The study did not take into account differences between children in the adoption and guardianship populations in calculating these statistics and also has limited implications for the U.S. because of national differences in child welfare systems. Tellingly, a book chapter on the experience of children and women in the child welfare system (Murray, et al., 2021) cited this study and stated, “research shows it [guardianship] may be less stable when compared to adoption (p. 10)”. However, this chapter did not report the high stability rates for both permanency options and how minor the difference was, nor did it cite other research (see below) that shows little difference in stability.

Studies that have taken the case differences between the two groups into account have found no differences in stability between adoption and guardianship. Matching cases on child age, race, relationship to caregiver and other variables to make the groups comparable, Testa (2010) found no significant difference on stability between guardianship and adoption in a federally funded subsidized guardianship demonstration project implemented in Fiscal Year 1997. Using the same matching method, Rolock and White (2017) compared groups on discontinuities in Illinois, which included returning to DCFS substitute care but also included the end of subsidies because of the death of the guardian or adoptive parent, return to biological parents, or a switch to a new guardian. Both Testa (2010) and Rolock and White (2017)

argued that the most appropriate comparison to make was guardianship versus adoption + long-term foster care, because the alternative to guardianship in many cases was only long-term foster care, not adoption. This made the combined adoption + long-term foster care group the best comparison group in both studies. Testa (2010) found no difference in stability when this comparison was made. Though the discontinuity rate was slightly higher for guardianship in a straight comparison with adoption (11% for guardianship vs. 6% for adoption) in Rolock and White (2017), the discontinuity rate was the same when guardianship was compared to the adoption + long-term foster care group (11% for guardianship vs. 11% for the combined adoption/long-term foster care group).

Moreover, assessments of stability can be limited because they typically only consider only one form of disruption to permanency: return to child welfare custody. Permanent placements can disrupt in other ways that pose as much if not more harm for young people. Ringeisen and colleagues (2022) used a national sample of children youth involved with child welfare to study 388 young adults who had exited foster care through adoption (see also Cross & Rolock, 2024). They found that 8% of adoptees reentered foster care after adoption, but a much higher percentage of adoptions disrupted in other ways. In 2% of cases, the adoptive parents' parental rights were terminated and the youth was emancipated, and in 30% of cases there was an informal interruption, including running away (18%), leaving home before age 18 (17%), living with a non-relative adult instead of the adoptive parents (9%), and becoming homeless for a period of time (8%). Informal disruptions, such as running away or experiencing homelessness, often go unreported to the child welfare system and are therefore not captured in child welfare administrative data, the primary source of data on adoption and guardianship instability. Yet these are important indicators of the stability of familial life and should be better understood. However, we know of no research that has examined the percentage of both formal and informal disruptions following children in foster care entering guardianships.

Conclusion

For many years, the received wisdom has been that adoption is more stable than guardianship as a permanency option for children in foster care. This belief has influenced Federal and state law and policy, and the standards, beliefs, and practice of permanency professionals. But it is not founded on empirical data. Research suggests high stability rates for both adoption and guardianship and little difference in stability. Indeed, research has found no significant difference if differences in the youth in these two populations are taken into account and a comparison group is used that reflects the reality that for many young people, the prospect of adoption diminishes as their age increases. In addition, research suggests that there are additional threats to the stability of adoption that the child welfare system is not even measuring.

More research is necessary. One limitation of existing research is that most of it has been conducted in one state: Illinois. Multiple state studies and/or a national study are needed, with larger sample sizes of youth in guardianship homes. Studies that go beyond administrative data and collect case data to relate case characteristics and professional beliefs and actions to the stability of adoption and guardianship would be extremely valuable. More research should be conducted on a range of types of disruptions for both adoption and guardianship.

The hope in this APSAC Alert is to inform permanency professionals, child maltreatment professionals in general, and the public of the lack of empirical support for the received wisdom regarding the greater stability of adoption. Better understanding of this should free professionals to make permanency decisions that are better attuned to the best interests of the child. The ultimate goal is to improve the well-being of children in foster care and give them a home and a family that loves them and supports them for the rest of their lives.

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For 35 years, Theodore Cross has been conducting research on the system response to child abuse and neglect. He is the 2018 recipient of

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