

Administration of Guardianship as a Permanency Option for Children in Foster Care in Illinois

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Abstract

Guardianship is recognized in federal and Illinois state public policies as a permanency option for children in state substitute care who cannot be reunited with their parent(s). Both federal and Illinois state policies favor adoption over guardianship when reunification with parents is not possible, and the use of guardianship is quite low nationally and in Illinois. The Illinois Department of Children and Families (DCFS), concerned about the length of time its children are in substitute care and disproportionate impacts on Black children, requested from our research center, a study to explore the actual use of guardianship as a permanency option.

In Illinois, when guardianship is used as a permanency option for children in foster care, a relative, close friend or foster home caregiver with whom the child has lived and formed an emotional attachment, is appointed by the court to be the child's permanent caregiver. Unlike adoption, with a guardianship, the child's parents retain some parental rights, such as visiting with their child and having the ability to, in the future, petition the court to resume the custody of their child. Illinois provides subsidies to eligible guardianships that support the care of the child.

Ours is a mixed methods study that employed semi-structured interviews and surveys. We gathered data from kin and fictive kin foster caregivers of Black children, permanency caseworkers and casework supervisors, guardians *ad litem*, judges, and DCFS attorneys. We sought to understand how, when, and why guardianship is used or not used as a permanency option for children, particularly Black children, in state substitute care when they cannot be reunified with their parent(s).

The findings suggest that provisions in federal and state legislation and regulation that prioritize adoption over guardianship are barriers to permanent guardianship in Illinois. Other barriers include the common belief among permanency professionals that adoption is a more stable option than guardianship for children; caseworkers' lack of knowledge about guardianship; caseworkers' failure to consistently provide information on guardianship to caregivers; lengthy case processing; caseworker turnover and large caseloads; the absence of clear, common goals with respect to the use of guardianship across permanency professionals; and biases and inequities that disadvantage Black children and families. These findings have implications for developing strategies to increase the use of guardianship equitably in Illinois through amending public policy, strengthening administrative capacity, and addressing racial biases and inequities.

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This study was undertaken in response to administrators of the Illinois Department of Children and Family Services (DCFS) expressing interest in examining why guardianship as a permanency option for children in foster care who cannot be reunified with their parents is rarely used. The administrators wanted to explore whether increasing the appropriate use of guardianship might help to improve permanency outcomes for children in state substitute care, particularly for Black children who are over-represented in the child protective service system and have had longer lengths of stay in substitute care than White children.

Guardianship is recognized in federal and Illinois public policies as a permanency option in addition to reunification with parents and adoption for children in state substitute care. Title IV-E of the Social Security Act defines guardianship as “a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control, custody of the person, and decisionmaking” (42 U.S.C. § 675). Title IV-E also contains a provision for a Guardianship Assistance Program (GAP) that authorizes the federal government to reimburse states and tribes that choose to administer this program, at their Medicaid reimbursement rate, “for the care of children by relatives who have assumed legal guardianship of eligible children for whom they previously cared as foster parents” (42 U.S.C. § 673). To be eligible for federal financial participation in these assistance payments, the family must have been eligible for foster care maintenance payments during a consecutive six-month period during which the child resided in the home of the prospective relative guardian who was licensed to provide a family foster home. A new regulation, effective November 27, 2023, will allow states and tribes to have licensing requirements for relative or kinship families that differ from those for other foster families (Separate Licensing or Approval Standards for Relative or Kinship Foster Family Homes, 2023).

Title IV-E creates a preference for adoption over guardianship “as a more permanent alternative to guardianship” due to the way its Guardianship Assistance Program is structured. To receive federal funds for guardianship subsidies, states or tribal agencies must first determine that return home or adoption are not appropriate permanency options for the child. A case plan must document the steps the “agency has taken to determine that it is not appropriate for the child to be returned home or adopted,” the efforts the agency has made “to discuss adoption...as a more permanent alternative to legal guardianship,” and the reasons the relative foster parent “has chosen not to pursue adoption...” (42 U.S.C. § 675).

The Illinois Juvenile Court Act of 1987 includes guardianship as a permanency goal which can be set by the court, but also has language that prioritizes adoption over guardianship.

The guardianship of the minor will be transferred to an individual or couple on a permanent basis provided that goals (A) through (D) [which include adoption] have been deemed inappropriate and not in the child’s best interests...The court shall confirm that

the Department has discussed adoption, if appropriate, and guardianship with the caregiver prior to changing a goal to guardianship.

The statute does not require a reciprocal discussion of guardianship prior to changing a goal to adoption. The statute also defines “subsidized guardianship” as “a private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out” (Illinois Juvenile Court Act of 1987, 2023). In Illinois, with permanent guardianship, unlike adoption, the child’s parents can retain some limited parental rights, such as visiting with the child and petitioning the court to later reunify with the child.

Illinois offers a guardianship assistance payment, through what is called “subsidized guardianship.” It uses the federal GAP program to fund subsidies when cases meet this program’s requirements, discussed above. Additionally, Illinois provides a fully state-funded subsidy for guardianships when the federal GAP requirements are not met and the child is 12 or over and has lived with an unlicensed relative caregiver or licensed non-relative caregiver for at least six consecutive months before the establishment of the guardianship. During that six-month period, the child has to have been eligible for foster care maintenance payments. Illinois regulations also stipulate that the subsidy can only be awarded if “return home or adoption are not appropriate permanency options for the child” (Subsidized Guardianship (KinGAP), 2023). There is no guardianship subsidy in Illinois for unlicensed relative guardians or a licensed non-relative guardian of children under 12. (However, the younger siblings of children 12 and older who are eligible for a subsidy under the KinGAP or state subsidy are also eligible for a subsidy under either program.) In addition, the subsidy agreement must be executed prior to the court’s establishment of the guardianship. The Illinois subsidy agreement is individualized. It can include payment for non-recurring legal expenses, up to \$2,000, associated with establishing the guardianship and ongoing monthly payments based on the needs of the child and circumstances of the family, up to the amount the family has been provided for the child’s foster care. It provides Medicaid coverage for the child and payments for health services not payable through Medicaid or public resources for treatment of conditions with origins predating the transfer of guardianship. Other expenses covered by the subsidies include therapeutic daycare; employment-related daycare for children under three; eligibility to apply for a four-year college scholarship; and an education and training voucher.

Illinois has had low rates of attaining permanence for children in substitute care. Of the children who entered substitute care in Illinois in 2020, only 36.4% attained permanence within 24 months. Of children who entered substitute care in Illinois in 2019, only 51.9% attained permanence within 36 months. Currently, in Illinois, guardianship is little used to attain permanency for children in substitute care. In 2019, 2.4% of the children who entered substitute care within the previous 36 months received a guardian (Children and Family Research Center, 2023).

Black children have been disproportionately over-represented in all phases of the Illinois child protective service system. This is in contrast to White children, who have been represented at rates equivalent to their share of the general population. Most recently, Black children are

over-represented in substitute care at over twice their proportion of the general population (Children and Family Research Center, 2023). In addition, Black children have had longer lengths of stay in substitute care and have been less likely than White children to exit from substitute care to reunification, adoption, or guardianship. Of the children who entered substitute care in 2020, 40.3% of the White children versus 32.7% of the Black children attained permanence within 24 months. Of the children who entered substitute care in 2019, 56% of White versus 45.6% of Black children attained permanence within 36 months. Among this latter group, 40.7% of White children were reunified versus 36.8% of Black children; 13.1% of White children were adopted versus 6.8% of Black children; and 2.8% of White children had a permanent guardian appointed versus 2.0% of Black children (Children and Family Research Center, 2023).

Study Methods

This is a mixed methods study centered on four research questions:

1. What values, principles, and practices do professionals apply to choosing between adoption and guardianship for children and youth in foster care?
2. What factors facilitate and inhibit the use of subsidized guardianship?
3. What are caregivers' views about guardianship and adoption? What is their experience with agencies regarding permanency planning?
4. How does the race of children and their families affect permanency decision-making and planning?

Data from the study were obtained from interviews and surveys with permanency professionals and caregivers.

- We conducted semi-structured interviews with 39 Illinois permanency professionals, including 13 permanency supervisors, 11 permanency caseworkers, five DCFS attorneys, five guardians ad litem, and five judges.
- We administered a survey to permanency staff working for DCFS and contracted agencies that was taken by 267 permanency staff (caseworkers, supervisors and other staff), a response rate of 14%.
- We conducted semi-structured interviews with 11 long-term kin or fictive kin caregivers of Black children whom DCFS believed to have goals to adopt or become the permanent guardians of the children placed with them.
- We administered a survey to caregivers with at least one Black child that DCFS had placed with them for at least a year for whom they had a goal of guardianship or adoption. This survey was taken by 137 caregivers (response rate = 25.7%) who answered questions for the 335 children in their care (335), the majority (78.8%) of whom were Black.

More detailed descriptions of methods can be found in a series of reports posted at <https://www.cfrc.illinois.edu/guardianship.php>.

Findings

This paper highlights key findings from our interviews and surveys of permanency professionals and caregivers. More detailed descriptions of findings can be found in a series of reports posted at <https://www.cfrc.illinois.edu/guardianship.php>. In this paper, we present key findings on four topics: (1) how professionals and caregivers view and choose between guardianship and adoption when reunification with parents is not a proximal goal; (2) caregivers' experience of permanency planning (and substitute care) for the children placed with them; (3) professionals' and caregivers' perceptions of the role of race in permanency planning; and (4) barriers to guardianship.

Choosing Between Adoption and Guardianship

In the survey and interviews with professionals, we sought to elicit their views of when guardianship or adoption was most appropriate for children for whom reunification was not a proximal plan. We also sought to understand how caregivers made their choice between adoption and guardianship for these children.

Professionals' Views on Guardianship versus Adoption

Most professionals we interviewed and surveyed expressed a commitment to making a permanency decision that was in the best interest of each child given their unique circumstances. In the survey, we asked permanency caseworkers and supervisors to compare the value of adoption and guardianship on 34 different criteria. On 22 of these criteria, respondents selected the choice "it depends on the case" or "no difference" more often than choices favoring either adoption or guardianship.

However, many of the professionals we interviewed and surveyed believed that guardianship is less stable than adoption and is more appropriate for older than for younger children. The professionals we interviewed were not aware of statistics and studies that show little to no difference in the stability of guardianships and adoptions in Illinois and elsewhere (Children and Family Research Center, 2023; Rolock, N. & White, K.R., 2016). When we asked interviewees to compare the impact of adoption and guardianship on stability, many said they thought adoption was more stable. They cited the option that guardians have to terminate the guardianship and return the youth to DCFS care and the possibility that guardianship gives parents to successfully petition the court to regain custody.

We should always try to give the most permanency that we can. If we can't return home, then we should try to find that stable and permanent environment through adoption for the child...It should be a process where you always start with adoption and you find a reason to rule out adoption before you move to private guardianship. [Judge]

Our priority is adoption...This is important for us in the courtroom. The reason that, when you close a case to private guardianship, the private guardian, whoever it is, for any

reason or for no reason whatsoever can come back to court and say, 'I don't want to do this anymore.'...So that clearly is less permanent than adoption. [Judge]

Adoption is more final. There is no turning back,...no second chances. [Caseworker]

Guardianship is temporary. Guardianship can always be switched over and given to someone else. Adoption, is, as we say, it's permanency. This is now where you are. This is now your home. There's no takesies backsies as some would say. [Caseworker]

The parent could go back to court and say, 'Oh, I'm good now,' and now we're yanking that child out of your home, and that's going to create...additional trauma to the child...Parent pops back in so many years later. What does that do to the child? Then what if they get that child back, and the child is home for a year, and then they end up coming back into care? [Caseworker]

Although almost half (48.7%) of survey respondents reported no difference between adoption and guardianship on stability, or that it depended on the case, 40% reported that they thought adoption was more likely than guardianship to last until the child reached 18.

Some interviewees expressed concern that with guardianship, either birthparents or kin would disrupt children's lives.

With guardianship...if the mother or father want to come around whenever they want to, it stirs things up in the family. Whereas adoption, you as an adoptive parent control the situation. [Supervisor]

I've always felt that there's this sort of, 'Well, we're going to put these kids in private guardianship with this family, and we're going to keep this family, which is problematic and dysfunctional, together.' Especially if...you're taking the children of a mother and placing both children with the grandmother who produced the mother...It always ...felt to me to be...sort of propagating a dysfunctional family...It's always bothered me that we're not...getting to the root of any problem. All we're doing is getting kids out of the system. [Judge]

When speaking about the way in which the child's age affects the choice between adoption and guardianship, many of our interviewees expressed that adoption was more appropriate for young children and guardianship was more appropriate for older youth. They explained that older youth are aware of their situation; have established, longstanding relationships with relatives; know their birthparents; and may not need or accept adoption in the same way as younger children. The concern about using guardianship with younger children was related to the view of guardianship as less stable than adoption.

If I've got a two-year-old or a three-year-old, and they come to me with a private guardianship, it's very likely I'm going to deny that as the recommended goal. [Judge]

We really don't like to do guardianship for children under the age of 12 because statistically and from our experience, kids of younger demographics need a lot more structure and placement stabilization than children who have grown up in the system...[Caseworker]

We don't do a lot of...guardianships on the younger kids because we don't want them to...get bounced around. [Judge]

Judge [name withheld] takes [into account] the well-being of the children...I think if [the child] was 14,15, then he probably wouldn't have said a thing about the guardianship, but the fact that she's four, he was like, 'Yeah, she's four. She deserves the permanency of adoption...and stability from that.' [Caseworker]

If a child is very young, I want to see them adopted. I think that's important to have that connection. Not that guardianship doesn't have that connection. But that...child is part of a family through the adoption...If a child is very young, adoption may provide them more stability overall in the long term. [Supervisor]

I was leaning personally towards the guardianship just because...she's with grandparents, there's a great relations all around, but the judge was more like, 'Yeah, she's four.' I think the overall feeling is adoption is more of a secure placement than...guardianship...I don't know why that thought process is there necessarily, unless it's because she's four. Maybe it's the age...I think the biggest thing was in order to set a guardianship goal, you have to rule out adoption first. [Caseworker].

I have, I don't think, ever been able to approve a guardianship for a child under the age of 12. Unfortunately, that can be a conflict for a lot of our grandparents, aunts, and uncles who don't...want to give up the placement of the child, but they're...not comfortable being the adoptive parent because of the way it may make other family members feel...It can be frustrating when you have a minor that's around six years old, and they would love to do guardianship, but because the department doesn't find that as stable as adoption, it's really difficult to get that to pass. [Caseworker]

An Illinois rule requires DCFS to consider the wishes of children under age 14 or the consent of youth older than age 14 in determining whether guardianship or adoption is best for the child. In the survey of permanency professionals, 88.3% of respondents reported that guardianship was indicated when "an adolescent age 14 and older does not want to be adopted," but a much lower proportion of respondents, 49.3%, reported that guardianship was indicated when "a child under 14 does not want to be adopted."

For many survey items, even when the largest proportion of professionals completing the survey saw no difference between adoption or guardianship, or felt that it depended on the case, the proportion favoring adoption was still much larger than the proportion favoring

guardianship. This was a common pattern in the survey: adoption placing second behind no difference/it depends, but far ahead of guardianship. This was true for the following items:

- Likelihood of placement lasting through age 18 without disruption (48.7% no difference/depends on the case, 40.0% adoption, 8.6% guardianship)
- Likelihood that the caregiver would try to “give children back” to DCFS (53.9% no difference/depends on the case, 26.6% adoption, 15.4% guardianship)
- Protecting the adolescent from abusive birthparents (47.2% no difference/depends on the case, 39.7% adoption, 4.4% guardianship)
- Ensuring that the permanent caregiver is the one taking care of the child day-to-day (47.6% no difference/depends on case, 38.2% adoption, 3.0% guardianship)
- Providing permanency when children have complex behavioral and/or medical needs that the birthparent(s) are not equipped to handle (39.7% no difference/depends on the case, 35.2% adoption, 18.4% guardianship)
- Child well-being (56.9% no difference/depends on case, 33.0% adoption, 3.8% guardianship)
- Supporting children after they turn 18 (54.3% no difference/depends on the case, 30.3% adoption, 11.6% guardianship)
- Helping permanent caregivers understand their responsibility to the child (51.3% no difference/depends on the case, 28.1% adoption, 5.2% guardianship)
- Length of time to permanency (56.9% no difference/depends on the case, 24.7% adoption, 14.6% guardianship)
- Adolescent well-being (64.8% no difference/depends on the case, 21.0% adoption, 5.6% guardianship)

For the following survey items, the largest proportion of respondents thought adoption was better than guardianship:

- Providing assurance of having a permanent home to children under age 14 (60.0% adoption, 31.5% no difference/depends on the case, 3.4% guardianship)
- A child’s sense of being part of the family (59.6% adoption, 31.5% no difference/depends on the case, 3.0% guardianship)
- Protecting the child (under age 14) from abusive birthparents (52.8% adoption, 38.6% no difference/depends on the case, 2.2% guardianship)
- Providing assurance of having a permanent home to children over age 14 (44.2% adoption, 37.8% no difference/depends on the case, 9.0% guardianship)

On one survey item the proportion favoring adoption was essentially equivalent to those selecting no difference/it depends, but much greater than those favoring guardianship.

- An adolescent’s sense of being part of a family (43.4% adoption, 41.4% no difference/depends on the case, guardianship 7.1%)

In interviews, the most common circumstances professionals cited for preferring guardianship to adoption were:

- The kin caregiver does not want to terminate the parental rights of the birthparent, who is their child, sibling, or parent;

- The child does not want to have their parents' rights terminated;
- The child prefers guardianship because they want to retain their relationship with the parent;
- A kin caregiver wants to remain in their original role of grandparent, aunt/uncle, or sibling and rejects taking on the identity of the child's parent.

A number of survey results conveyed the value of guardianship for supporting relationships within families. A majority (62.9%) of survey respondents felt guardianship could be indicated when "an adolescent age 14 or older desires an ongoing relationship with their birthparent;" a smaller proportion, 35.2%, felt this was also true for children under age 14. On the survey, guardianship received more endorsements than adoption for:

- Maintaining the child's relationship with their birthparents (36.7% guardianship, 9.4% adoption, 47.9% no difference/depends on case)
- Maintaining the adolescent's relationship with their birthparents (40.1% guardianship, 5.6% adoption, 45.7% no difference/depends on case)
- Responding to families that had longstanding informal kin caregiving before DCFS became involved (25.1% guardianship, 17.6% adoption, 44.9% no difference/depends on case)
- Supporting permanent caregivers' relationships with birthparents (31.4% guardianship, 8.2% adoption, 48.7% no difference/depends on case)
- Maintaining contact with siblings (16.8% guardianship, 6.8% adoption, 60.7% no difference/depends on case)
- Enabling birthparents' visitation with their child (35.2% guardianship, 4.8% adoption, 44.9% no difference/depends on case)
- Helping kin caregivers feel comfortable with the permanency decision (20.6% guardianship, 12.4% adoption, 51.3% no difference/depends on case)
- Getting birthparents to accept a permanency plan (34.4% guardianship, 7.1% adoption, 43.1% no difference/depends on case)

Several interviewees expressed the value of using guardianship when parents have the potential to change over the course of years and become able to safely care for their children again. They based their judgement on observations of the parents' emotional connection to their children and their efforts to change. They acknowledged that guardianship would make it possible for parents to regain custody of their children if they were able to change in this way.

You'll see some cases where adoption may not be the best option for the family simply because we know mom and dad care about the child; however, their issues will probably take longer than we would like to [address], and we don't want to keep children in care because parents need more time, but it's not appropriate to terminate their rights...if it's going to take maybe two, three years and grandma wants to just remain as grandma, then, subsidized guardianship may be the better route to go...And, she had had a lot of trauma. Taking that into account, she just needed time, and time that foster care doesn't allow a lot of parents. [Supervisor]

These were two younger children. But the judge decided for a guardianship goal because it was the hope that this mother, at some point, would get herself together and maybe petition to get [her] guardianship reinstated...The mother...was a parenting teen. She was a youth in care. She's now emancipated. And the father was also a youth in care. [Supervisor]

Mom is in jail...She should do a guardianship for her children. Then at some point, when she gets herself together, she can petition to get her children back...This mother sat down with this relative caregiver, and they made a family plan...I think it's an appropriate plan. [Supervisor].

We do have parents who file motions to vacate guardianship because they've corrected the conditions that brought the case into care. It happens probably once or twice a year where the court vacates a guardianship and returns a child home to the care and custody of their parents. But that's almost always where the child is in some sort of a relative situation. In those situations usually grandma is thrilled or their auntie is thrilled that mom or dad have made the gains needed to correct whatever issues brought the case into care...They're very rarely contentious because usually it's something that everybody is supporting once it gets to that point. [Attorney]

More survey respondents preferred guardianship (41.5%) over adoption (10.4%) when parents are following a service plan but are unable to care for their children at the time. Another example of a situation which some interviewees spoke of in which guardianship is more appropriate than adoption is when parents are combating substance abuse, which often requires a lengthy period of recovery. More survey respondents (42.7%) favored guardianship over adoption (6.4%) when a parent is taking steps to overcome an alcohol or drug problem but needs more time. However, some interviewees expressed concern about unnecessarily delaying true permanency based on false hopes for parents who may not be able to change enough to regain custody of their children.

Caregivers' Views on Guardianship versus Adoption

Of the 11 kin/fictive kin caregivers of Black children we interviewed, three had never been informed about guardianship as a permanency option; two of these caregivers were in the process of adopting the children they cared for (who were their great nieces and nephews). Of the eight caregivers who were given an opportunity to choose between adoption and guardianship, four chose guardianship over adoption for the children they cared for, three opted for adoption over guardianship, and one caregiver chose guardianship for two of the children she cared for and adoption for a third.

The kin/fictive kin caregivers who chose guardianship over adoption for the children in their care had three reasons for doing so: a) concern about a negative impact of adoption on family

relationships, b) a desire to allow for the possibility that the parent might later become able to reunify with their children, and c) the children's preference for guardianship over adoption.

I didn't want to cause any damage [in my] relationship with my mom and...sisters. I believe...adoption...would have terminated my mom's rights...There is no way I could do that because I still communicate with my mom. [Kin caregiver of two younger siblings with guardianship goals]

I did not want to adopt because of the family dynamic. [Kin caregiver of cousin with guardianship goal]

I wanted to be his guardian in case...his mother did get well, she could always come back...[and] have the option of having her son...If I adopted him, I would be taking him away from her. And I didn't want her to feel that I was taking her son. [Kin caregiver of great grandchild with guardianship goal]

Two of the girls...still have a big connection with their family...I think that...they didn't want their family to feel like they were casting them to the side, because they still talk to their mom, they still see their mom...One of them sees and visits with their dad. [Fictive kin caregiver who helped adolescents choose between adoption and guardianship.]

The caregivers who chose guardianship were similar to those who chose adoption in expressing love for the children and a firm commitment to caring for them on a permanent basis. When asked about the highs of their caregiving experiences, they shared the pleasure they felt seeing children eventually beginning to flourish under their care and with helping them prepare for college and careers.

She is a blessing. Kids keep you young...She's been thriving. She's in a loving environment, and she goes to school every day. We have a routine...The highs are learning to be a parent. [Kin caregiver of cousin with guardianship goal]

It's been real good because I'm starting to see them flourish as individuals because they have a stable environment, and they get to do things and talking to them, getting them to open up...Over these last five years, it's been a dramatic change from when they first came...really quiet and scared to ask for things. And now they talk all the time...So far it looks like [they will all go to college]. Two of them are sophomores and one of them is about to be a freshman...We've been talking about college. They've been talking about careers...I've been looking into [paying for college]. [Fictive kin caregiver of three with goal of guardianship for two and adoption for one]

To raise them up...so they can be their best, so they can be...successful...in society...They didn't have time to think about [plans after they graduate from high school]. I believe this is probably a point in their life where they can actually breathe and know they are

safe...and don't have to worry...It's still a...bit of adjusting...We're trying to work things out with school...I have to treat them like my kids, but still have that boundary that they are my sisters, as well. We've been talking about [college]. We've been trying to see what they want to do as far as a career...We're trying to help them navigate what their interests are, what they like, what they don't like. [Kin caregiver of two siblings with guardianship goal]

No caregiver we interviewed who had chosen guardianship indicated that they preferred guardianship to adoption because they were tentative about caring for the children.

In the survey, caregivers who had already attained guardianship for children ($n = 70$) indicated that the most important reason they chose guardianship for that child was a) because of the services and supports the child would receive (24.6%), b) to allow the birthparents to keep their identity as mom or dad (17.4%), and c) to make it possible for the children to reunify with the birthparents in the future (14.5%). Caregivers who indicated that they preferred guardianship for foster children in their care ($n = 35$), reported they believed guardianship was in the child's best interest because a) the child would receive services and support (34.3%), b) the child would receive support from the guardian after they turned 18 (34.3%), c) the birthparents could keep their identity as mom and dad (28.6%), and d) guardianship would allow for the possibility of reunification with birthparents in the future (25.7%).

The caregivers who chose adoption for the children in their care explained that they did so because they felt adoption gave the children more permanence and sense of belonging in the face of the loss of their parents.

She didn't have a good relationship with her mom, and she didn't really know her dad. So, I think that's why she chose to go with adoption. [Fictive kin caregiver who allowed adolescent to choose between adoption and guardianship]

We've always wanted adoption...I'm more of a mother than her mother ever was...I've mothered her. I've nurtured her, even from a baby... We've been in court in and out for years now. The parents both signed their rights away...They said that I'm not your parent...and [CHILD] was actually in the courtroom...If I would've known that they were going to talk and ask the mother all these questions...I wouldn't have let her be in the room, because it was very painful...They both did that to her. So, I felt...I want to be your mom. [Kin caregiver of granddaughter with adoption goal]

They did discuss guardianship...For me, I just don't want [CHILD] to feel confused on belonging anywhere. She calls me Mom. And she's been calling me Mom for a long time. And her mom is not involved. At first, she was, and then...She's always been inconsistent...I just want her to know that she has a family and a home. I don't want...her to question. [Kin caregiver of niece with adoption goal]

In the survey, caregivers who had already adopted their children (n=67) indicated that the most important reason they chose adoption was “to make the child a permanent part of our family” (77.3%); “the child wanted to be adopted” (34.8%), “the services and supports the child would receive after the adoption (18.2%), and “to make sure the child would be eligible to inherit should something happen to me” (18.2%). The caregivers of foster children who preferred adoption for them (n=104) preferred adoption “to make the child a permanent part of our family” (76.9%), because the child wanted to be adopted (35.6%), the services and supports the child would receive after the adoption (25%), to make sure the child would be eligible to inherit (22.1%), and to change the child’s name (20.2%).

Caregivers’ Experience with Agencies with Permanency Planning and Substitute Care

Caregivers expressed several concerns about permanency planning and substitute care processes in both the interviews and the survey. These concerns included having to advocate to have their kin placed in their care, not being told about guardianship as a permanency option, the lengthiness of the permanency process, and excessive turnover of casework staff.

Two of the kin caregivers we interviewed reported that they had to work hard to get the children placed with them instead of in non-family foster homes. A third kin caregiver described not being able to get the older sibling of the child now in her care 13 years earlier.

I was asked by my sister [to be the caregiver for the child]. [The child] had been in DCFS custody since the age of two, and my sister couldn’t get her back. She found out that...family should have been offered a chance to have her, and that opportunity wasn’t given. She asked me, would I take her. And I...said yes. And it took maybe four months before I got her...She had been in different homes [during a year’s time]...I was her fourth. My sister...told the judge, ‘I have a sister who wants my daughter...There’s supposed to be a family member...asked if they would take the child before they...go into another home. Nobody asked if any of my family wanted my baby.’ [Kin caregiver of niece with adoption goal]

I wanted to do it the minute I found out they were going to be in the system...I did find out I was unable to because I was in college at the time. I tried to pursue them then, but they told me...I wasn’t stable enough...It took years. I had to wait until I graduated. And even after graduation, there was still some time because they were staying with my cousin...And then the opportunity came when...they were placed back into foster care...with a different caregiver...I really started pursuing them...and [would] not take no for an answer...Before they got to me, they were [over a six-year-period] placed with my cousin...my aunt...[and] with three to two other [non-relative] foster parents before they were eventually placed with me. [Kin caregiver of siblings with guardianship goal]

She got adopted by the person that was a foster parent to her at that time...She was six months old. Even after they had me fill out an application...She asked me, and I said, ‘Yes, I would adopt her.’ The social worker never called me back. So, I called...six months

later. 'What's happening...You never called me back.' 'Oh, I decided I was going to let the foster parent adopt her.' I definitely would have taken her. [Kin caregiver of grandniece with adoption goal, speaking of the niece's older sibling]

Among the caregivers who took the survey, 36% of the relative caregivers and 31% of the fictive kin caregivers reported that they themselves, not the caseworkers, had initiated the conversations which got the children placed in their care.

As noted previously, three of the caregivers we interviewed had never been told about guardianship as a permanency option. This included two caregiving great aunts who had adoption goals for the children they cared for and a fictive kin caregiver of teens ages 14, 15, and 17 when they came into his care. The children had been in the care of the great aunts for two to eight and a half years at the time of the interview. The great aunts explained that they were adopting the children for whom they cared because they wanted the children to be with family and out of the foster care system. Although guardianship also would have allowed them to achieve these objectives for the children they cared for, they had not been given the opportunity to make a decision between the two options. The teens had been in the care of their adult friend for two and a half years. The fictive kin caregiver who cared for the teens shared that the caseworker who worked with them said the agency would not pursue adoption "or whatever" for the teens in his care because the length of the process would not enable the agency to complete it before the teens aged out of foster care. The oldest of the teens, 17 at the time of placement, had been given extended care through age 21. There was no plan for reunification, and the caregiver had been told not to allow visits between the teens and their mother.

Several caregivers we interviewed talked about the lengthiness of the permanency process. A grandmother who adopted her granddaughter just eight days before her 18th birthday explained that it was her perception that the agency was short-staffed and had not consistently worked on processing the adoption. She described having to push very hard and repeatedly to get and keep the process moving.

Every few months I'd call and say, 'How's the adoption process going?' I don't think they were actually working on it at all. I don't think that anybody was actually doing anything and there would be times that I would call them, and they had forgotten...They hadn't done this or that yet...I know they're short staffed. I know that it's hard. But like I said, there were times that I couldn't get ahold of them. There were times that it would be three or four times I called them and something still hadn't gotten through or gotten done...I told them... 'Her 18th birthday [is coming up]. Am I ever going to get her adopted?' And so, they said...it had to get done before her 18th birthday. And I'm like, 'Well, I've been trying to do this for a long time now.'

Several caregivers we interviewed spoke of having experienced a great deal of turnover in the caseworker staff that worked with them.

I think the problem with the permanency and why everything is so slow is the turnover rate in caseworkers, because since the process has started, we've had a least five different caseworkers. So, every time there's a new caseworker, it gets pushed back or you have to go back to court and that gets pushed back...Once you get a new caseworker, you don't hear anything, and the ball gets dropped, and you start over.

The survey asked caregivers about sources of delay in processing permanency for the children for whom they were caring. Over half (51.8%) of the caregiver respondents (n=122) indicated that staff turnover had delayed permanency for the children in their care. Over a quarter (27.9%) indicated that a lack of timely information from their caseworker had delayed permanency. A quarter (24.6%) indicated that a lack of needed information from their caseworker had delayed permanency for a child in their care. Other frequently occurring barriers they identified as delaying permanency for children in their care included lack of services for the child (23.8%) and delays in processing approval from DCFS for adoptions (23.0%) and guardianships (18.0%).

Several additional concerns emerged in the interviews with kin and fictive kin caregivers of Black children. These concerns included having caseworkers who were not fully knowledgeable about all aspects of the process; having to endure inappropriate casework practices; not receiving information on foster care, adoption, and guardianship subsidies; and not receiving sufficient supports with parenting and caregiving from DCFS.

My caseworker...she's fresh out of college, and there's so many things she doesn't know...This is her first job...Whenever I ask her something she always has the same answer, 'I don't know. Well, I'll ask.'...When I do have a question for her, she generally does not have an answer.

I don't even know where to start. There were specific people in the beginning in the case that wanted [CHILD]. There was a caseworker that turned into a foster parent. She was [CHILD's] caregiver. She took [CHILD]. She had [CHILD]. And my sister [CHILD's mother] told me... 'This lady wanted my baby.'...And the caseworker in the beginning that brought me [CHILD] was connected to that lady. So, when I first got [CHILD], they were like white on rice. And the...caseworker told me that [CHILD] could be with my mom, who has my sister's other two children. So, I took her one day to my mom's house...That lady sent the police to my mom's house to get [CHILD] because she said that [CHILD] wasn't supposed to be in nobody's care but mine. And there was a big argument...with me and the caseworker who [had] told me she could be with my mom. He kept saying he didn't tell me that. And I said, 'Yes, you did tell me that'...I think they were...trying to get [CHILD] back. I raised such a big deal about it, that they ended up getting rid of that caseworker for me and sending somebody else. And I didn't deal with that lady anymore. I was being nice because that was the home [CHILD] came out of...but after that, I cut ties with her. And even after that, she still tried to text me and say, 'I still have some things of [CHILD's], and I really am sorry...I was just doing my job.' And she was trying to reach out, but I didn't give her no more responses.

[Agency staff] don't offer much...They don't offer anything. I've been screaming out for some form of...grandparent network...These children didn't come with any...instructions...When I'm faced...with a...dilemma, and I don't have an answer...I need someone who has faced said dilemma...to share that with me. But unfortunately, DCFS hasn't done that, not [PRIVATE AGENCY]...Right now, it's just placement warehousing...I've learned that things aren't the way that they were when I was a child...It can be...challenging when it comes to behaviors...ADHD issues...their schooling...I need to learn.

I wish there was more support from the agency as far as any assistance that can help a child...be productive...more help and guidance in care. I don't see these people until there's a deadline they have to meet...I wish...they would provide more support that could help me make sure I'm helping her...things for your child to...keep from...going through depression,...anxiety.

In addition to wanting general supports with parenting, the interviewees highlighted several challenges they faced in their caregiving, including addressing the trauma experienced by the children, interacting with the children's parents, and grieving for the separation of children and birthparents from each other.

Caregivers who took the survey generally expressed a positive view of their caseworkers. The survey asked caregivers "How well do the following words describe your and the child's relationship with their caseworkers?" They were presented with six words that described relationships with the caseworkers for each child. They rated each word using a scale from one to ten, where one means "it does not describe the relationship at all," and a ten means it "describes the relationship extremely well." Overall, the caregivers rated their relationships with the caseworkers favorably for each of the six words (respectful $M = 8.7$, culturally appropriate $M = 8.3$, timely $M = 8.0$, responsive $M = 8.0$, prepared $M = 7.9$). The concerns about caseworkers shared by interviewees and survey respondents should be viewed in the context of these ratings.

Perceptions of the Role of Race in Permanency Planning and Decision-making

We interviewed and surveyed permanency professionals and caregivers about their perceptions of racial inequity in the Illinois child protective service system.

Perceptions of Professionals

While some professionals did not perceive racial inequities in permanency planning and decision-making, others felt that Black families were seen and treated differently from White families. In our interviews and, most starkly, in the survey, we noted that Black professionals were more likely to perceive racial inequities than were White professionals. In the survey,

- White caseworkers were more than twice as likely as Black caseworkers to respond that there was no difference in permanency planning for Black families compared to White families.
- White caseworkers were almost four times as likely to perceive no differences in child welfare system supports for Black children and their families compared to White children and their families.
- Black caseworkers were almost six times more likely to agree that “Guardianship is pushed more for White than Black caregiving families.”
- Black caseworkers were almost five times more likely to agree that “Children are reunified more quickly in White families than in comparable Black families.”
- Black caseworkers were almost four times more likely to agree that “The courts give Black birth families less time than White families before moving to terminate parental rights.”
- Black caseworkers were more than twice as likely to agree that “Children are more likely to be reunified in White families than in comparable Black families.”
- Black caseworkers were more than five times more likely than White caseworkers to agree that “Adoption is pushed more for Black than for White caregiving families.”

In addition, almost one-fifth (19.8%) of professional survey respondents agreed that licensing requirements tend to disadvantage Black families more than White families. Professionals we interviewed explained that racial disparities can emerge from licensing requirements that are more likely to negatively impact Black than White families, such as requirements related to criminal records or the size or configuration of the family’s home. This is significant because in Illinois, licensure is required to obtain a guardianship subsidy to assist in the care of children under 12 and for children over 12 if the guardian is not a relative.

Several Black professionals we interviewed spoke of the under-representation of Black people among permanency professionals and discussed how that affects the cultural competence of permanency professionals’ interactions with families.

There needs to be greater representation of a variety of people making these decisions. Social workers, attorneys, judges, they need to look like these kids that they’re taking into care...The majority of these kids are children of color, and the majority of people making decisions for these children are not. And I think that’s problematic. I think the supports or systems that need to be in place...need to dismantle the savior complex that I think DCFS is trying to implement. What they believe is the perfect family structure [is] based on the predominant culture, which is White culture and... [imposing it] onto other cultures.

Some of the permanency professionals we interviewed described how they themselves were the objects of racial stereotyping and discrimination in carrying out their jobs.

On my first day there, the bailiff, when I was going through security, was shocked that I was an attorney. They had never seen one [a Black attorney] in their courtroom. The

bailiff proceeded to ask me how long I was going to be there. I said, 'Well, I think there are five cases up.' He's like 'Okay. Well, just kind of make sure you're out of town before it gets dark.'...The judge could not get it in his head that I was actually [an] attorney.

I remember when I was an intern, and I went out [on an investigation] with an African American female who had been in the field for years. I was...a 20-something year-old intern, and when we went out to the homes, they would turn to me and start talking to me like I was the authority...You know that the response you get is going to be different...When I walk into the projects...it is like the parting of the Red Sea.

Perceptions of Caregivers

Seven of the 73 Black caregivers surveyed and two of the Black caregivers we interviewed reported that they or someone in their family had or may have been treated unfairly due to race by a permanency professional. Experiences interviewees reported as leading to this perception included having to fight to get a relative placed with them, inappropriate questions about drug use, inappropriate casework practice, and not receiving full information from permanency professionals.

The survey asked caregivers to share their observations of interactions of judges and caseworkers with Black family members by asking them to rate how truthful each of the five statements is for judges and caseworkers: a) work effectively with Black family members; b) are culturally appropriate with Black families; c) are comfortable with Black family members; d) respect Black family members; and e) respect Black fathers. The caregiver respondents rated each item on a five-point scale from "almost never true" to "almost always true." Across all five items for judges and caseworkers, the percentage of respondents answering "almost always true" ranged from 37% to 57%. The choices "neutral" and "sometimes true" comprised the bulk of the remaining responses. Between 1% and 7% of the responses for each item were "almost never true" or "rarely true." Black caregivers gave significantly lower ratings than White caregivers of judges' comfort and effectiveness in working with Black families and respect for Black fathers. Additionally, Black caregivers were significantly less likely than White caregivers to see caseworkers as respectful of Black fathers and as culturally appropriate in working with Black families.

The survey asked caregivers to rate the truthfulness of two statements describing caseworkers' and judges' expectations of Black family members: a) judges/caseworkers "demand more from Black families" and b) judges/caseworkers "focus too much on what happened in the past with Black family members." A plurality of respondents chose the "neutral" response, 14% to 20% of caregivers rated the statements as "sometimes true," and 7-10% indicated the statements are "almost always true." There was a statistically significant difference between the ratings of White and Black caregivers, with Black caregivers rating the statements as more true than did White caregivers.

The survey asked caregivers how much they thought judges' and caseworkers' implicit racial bias affected their planning for a permanent home for the children in their care. Over half (55.3%) of the caregivers indicated that an implicit racial bias on the part of judges had an effect on permanency planning. Over half of caregivers (52.8%) indicated that an implicit racial bias on the part of caseworkers had an effect on permanency planning. Here too, Black caregivers reported a greater effect of implicit racial biases held by judges and caseworkers on the permanency process than did White caregivers. The mean rating of the effect of caseworkers' and judges' implicit bias on permanency planning was significantly higher for Black caregivers than for White caregivers. In both cases, the mean rating of Black caregivers was twice as high as the mean rating of White caregivers.

Barriers to Permanent Guardianship

The data described above led us to identify several sources of barriers to the use of guardianship as a permanency option. These included: the common, but not empirically accurate concern held by many permanency professionals that guardianship is less stable and less appropriate, especially for younger children, than adoption; caseworkers' failure to consistently provide information on the option of guardianship to caregivers; language in the state statute and Title IV-E that prioritizes adoption over guardianship; a lack of capacity that results in long lengths of time to process guardianships; difficulty getting children coming into substitute care into the care of their kin; and biases and inequities that disadvantage Black children and families.

In our discussion of caregivers' experience of permanency planning we noted their concern about how long it takes to process permanencies, including both guardianships and adoptions. Many of the professionals we interviewed also talked about how much time both adoption and guardianship take to achieve, with a substantial negative impact on children and families. Several interviewees cited examples of permanencies that took years to achieve. One attorney talked about a case that ended in guardianship after DCFS had fought in court for years in an unsuccessful attempt to terminate parental rights. Others spoke of delays stemming from huge caseloads, high rates of caseworker turnover, and workers' lack of knowledge and skills.

Professionals reported that the processing needed to obtain a guardianship subsidy can either prevent guardianships or substantially add to delays in processing guardianships. Survey respondents indicated that barriers to getting the subsidy, such as licensing requirements that household members not have a criminal record (30.2%), physical environment requirements (24.3%) and other licensing requirements (34.2%) prevent guardianships that are in the child's best interest. Interviewees explained that in order to obtain a guardianship subsidy, prospective guardians must obtain a foster care license and then wait for six months and complete a subsidy agreement before the guardianship can be finalized. Professionals described how some caregivers were worried about scrutiny, slow in completing the requirements for a license, and often waited months after completing licensure requirements before they were given a license. Over a third of survey respondents (35.6%) indicated that licensing significantly delays the attainment of subsidized guardianships. Interviewees also described additional delays

stemming from the processing of subsidy agreements that require assembling documentation of the child's needs and a lengthy timeline to obtain DCFS approval.

Our interviews and survey of professionals also indicated that an additional barrier to guardianship can stem from caseworkers' not having a sufficient understanding of guardianship. In our interviews, we found some caseworkers who had little experience with guardianship because it was scarcely used in their agency. Some professionals we interviewed told us they had insufficient knowledge to answer our questions about guardianship confidently. In the survey of permanency staff, 65% indicated that training on guardianship would be extremely or moderately useful to them.

Another barrier to guardianship we encountered in interviews and the survey of professionals is a belief held by many that DCFS and judges favor adoption over guardianship. Over a quarter of the survey respondents indicated that the courts favor adoption over guardianship whenever possible. Almost half of the professionals surveyed thought that DCFS favors adoption over guardianship whenever possible. One DCFS attorney we interviewed contrasted their professional opinion as a DCFS representative, which they felt obliged them to favor adoption, with their personal opinion, which saw no difference between adoption and guardianship. A guardian *ad litem* we interviewed talked about how it can be frustrating when a family prefers guardianship for a young child because of challenges they experience in getting guardianships approved by DCFS. Because of discussions we had with several administrators in the central office of DCFS who were members of an advisory group for this study, we were aware of the desire of the DCFS central office to increase the appropriate use of guardianship. Thus, it is likely that our interviews and survey results indicate that administrative goals related to guardianship are not effectively shared throughout the system, which consists of several vertical departments and organizations, a separate branch of government (the courts), as well as a regional and sub-regional administrative structure.

Conclusion

Our results indicate that to increase the use of guardianship in Illinois there is a need to amend public policies at the federal and state level that prioritize adoption over guardianship and to strengthen DCFS capacity to administer permanency and other services to children in substitute care and their families. Results show there is, as well, a need for concerted efforts to address the racial inequities and biases that pervade the child protective service system as well as the broader society. Details of recommendations to strengthen permanency planning, increase the appropriate use of guardianship, and to do so equitably, will be added to the website that contains the reports on this study: <https://www.cfrc.illinois.edu/guardianship.php>.

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