

A New Look at the Role of ASFA and Children's Ages in Adoption

By Penelope L. Maza, PhD

The enactment of the Adoption and Safe Families Act (ASFA) in 1997 has reinvigorated the emphasis on the adoption of children from the public foster care system. ASFA encouraged adoption through two mechanisms that focus on changing State child welfare agency practice.

First, the Adoption Incentives Program provides financial rewards to States which increase its number of adoptions in certain categories of children over baseline numbers of adoptions (Maza, 2000). Adoptions are also encouraged through the requirement that termination of parental rights (TPR) petitions be filed on behalf of children who have been in care 15 out of the previous 22 months, in most circumstances.

The major outcomes expected from the legislation were an increase in the number of adoptions, a decrease in the time to adoption for those being adopted, and the consideration for adoption and adoptions of children for whom this permanency outcome may not have been considered feasible in the past. However, there was concern that an increase in the number of "legal orphans"¹ might occur as an unintended consequence.

Since it has been more than 10 years since ASFA was enacted, it is time to assess the impact the statute has had on adoption and determine if the hoped-for outcomes have been or are being achieved.

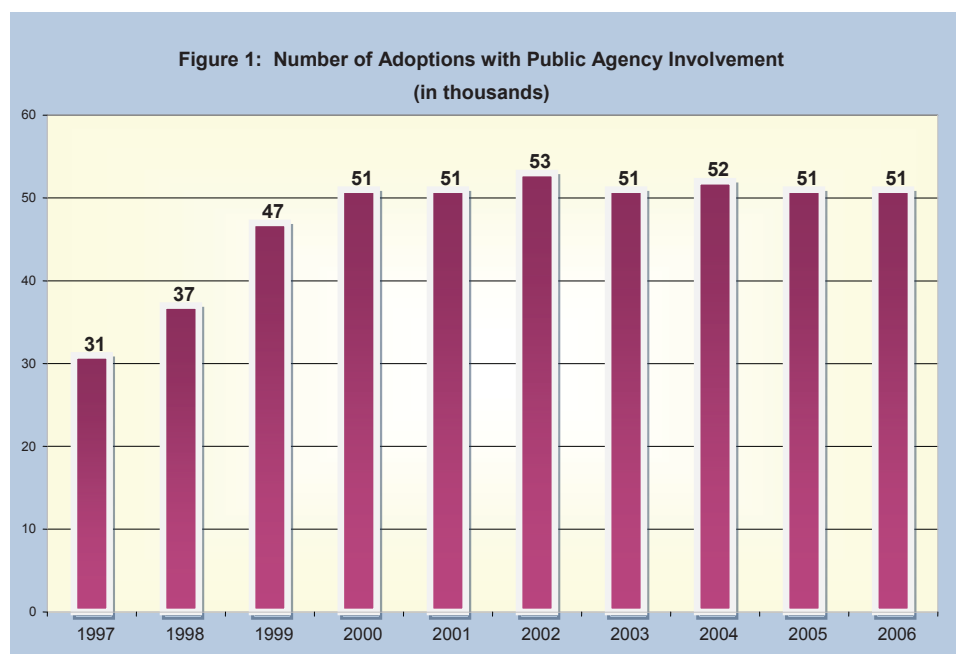
The picture is somewhat mixed in regard to increasing the number of adoptions. Based on data from the Adoption and Foster Care Analysis and Reporting System (AFCARS),² adoptions initially increased from 31,000 in FY³ 1997 to 37,000 in FY 1998 and to 47,000 in FY 1999. Since FY 2000, when adoptions reached 51,000, the number has fluctuated in the low 50,000 range

(see Figure 1). However, the impact of ASFA on time to TPR and time to adoption has been remarkable. For adopted children, the average time from removal to TPR

has declined by more than a year, from 37 months in FY 1998 to 23 months in FY 2006. The time from removal to adoption has declined by almost a year, from 48 months in FY 1998 to 37 months in FY 2006.

Early analyses of AFCARS data showed that age at waiting is the most critical characteristic related to the likelihood that waiting⁴ children will be adopted. These early analyses and all analyses conducted since that time have consistently shown that between the ages of 8 and 9, waiting children are more likely to continue to wait than to be adopted (Maza, 2002).

Based on these reports, the Congress revised the Adoption Incentive program during its reauthorization in FY 2003, by establishing an additional incentive fund category for the adoption of children age 9 and older. In addition, The Collaboration to AdoptUsKids⁵ project funded by the Children's Bureau, plus other activities supported by the Bureau and others, refocused efforts on the adoption of older children defined as waiting children between the ages of 8 and 9 years old.



One way to measure progress in this area is to track the difference between the proportion of children age 9 and older who are waiting to be adopted and the proportion of
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children 9 and older who are adopted. Because age is such a strong factor in adoption, a larger percentage of waiting children are 9 and older compared with those adopted.

If the programmatic emphasis on the adoption of older children is successful, the percentage of adopted children who are age 9 and older should gradually get closer to the percentage of waiting children who are 9 and older, closing the gap between these two percentages. As Figure 2 shows (see below), instead of declining in recent years, this gap has been *increasing*. This signifies that the emphasis on the adoption of older children has yet to show hoped-for effects. The percentage of waiting children 9 and older has increased from 39% in FY 1998 to more than 4 in 10 waiting children (44%) in FY 2006. In contrast, the percentage of children 9 and older in the adoption population has remained at less than 1 in 3 from FY 1998 through FY 2006. These data suggest that ASFA has not affected the adoption of older children.

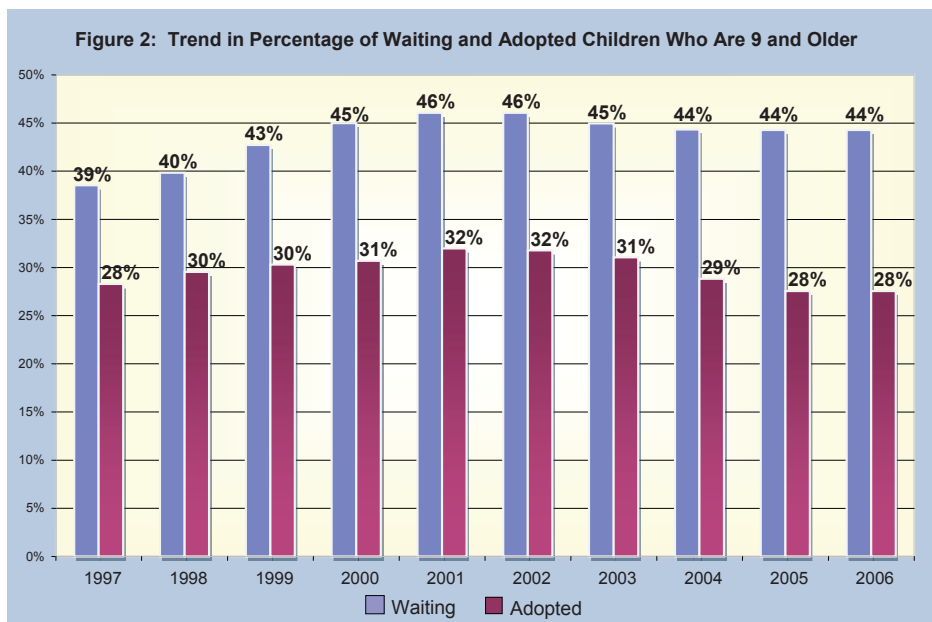


Figure 3 shows (see next page) the average time to adoption for each age at removal for adopted children in FY 1998 and FY 2006 and provides at least a partial explanation for this outcome.

This graph shows three interesting things about children who are eventually adopted. First, the dramatic decline in time to adoption has occurred only for children whose most recent removal occurred before age 8. Because these children constitute such a high proportion of adopted

children, their decline in time to adoption has driven the overall decline in time to adoption.

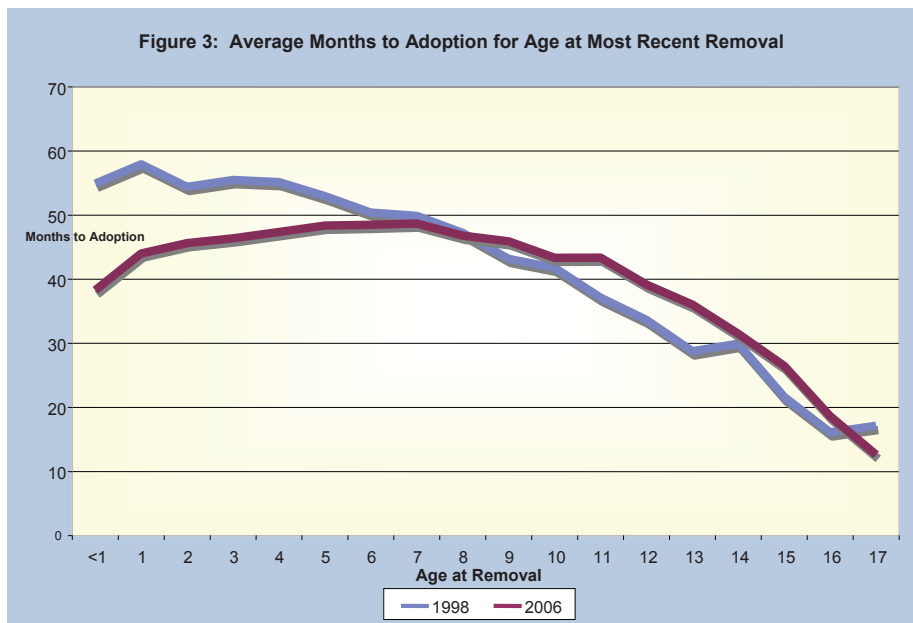
Second, there is the seemingly counterintuitive finding that in FY 2006, the average time to adoption for children removed at age 10 and older was less than the average time to adoption for all younger children except infants. By removal age 14, the average time to adoption was less than the average time for children removed at less than 1 year old.

Finally, the time available to complete an adoption for children who enter foster care at an older age is very short. For example, given the necessary time frames for getting a goal of adoption and a TPR for both parents completed, in most cases, a child who entered care at age 10 would be at least age 13 when available for adoption. If the child was not being adopted by a foster parent or relative, the finalized adoption, would be completed at a much older age.

This could explain another disturbing finding. Overall, the proportion of children discharging to emancipation⁶ increased from 7% in FY 1998 to 9% in FY 2006. It is also the case that the proportion of youth age 15 and older with a TPR who were emancipated increased from 39% in FY 1998 to 50% in FY 2006. These legal orphans constituted from between 17% and 50% of the increase in emancipations that occurred from FY 2001 through FY 2006. Although this is not a large number, 3,800 in FY 2006, its growth is of concern. At this time, it is unknown whether or not these children would have emancipated out anyway or would have been discharged for other reasons, primarily reunification, as happens with other children who enter care at older ages (Maza, in press).

Finally, ASFA has been successful in promoting adoption as a permanency option for a broader range of children, specifically children entering care at increasingly older ages. The average age at most recent removal for waiting children increased by one year between FY 1998 and FY 2006. If this trend continues, the challenges associated with achieving adoption for these children will continue.

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Critical steps need to be taken to revise practice to be compatible with the time constraints relating to achieving adoption for these children. At a minimum, this process should include examining the special roles that concurrent planning, legal risk placement, the existence of younger siblings needing adoption, and youth preferences about being adopted might play for these children.

End Notes

¹“Legal orphans” are children with TPRs who emancipate/age out of foster care.

²All statistics reported in this article are from AFCARS data available as of January 16, 2008.

³The federal fiscal year runs from October 1 through September 30.

⁴There is no federal definition for a child waiting to be adopted. For analytical purposes, the definition used in Figure 2 includes children who have a goal of adoption and/or whose parental rights have been terminated. It excludes children age 16 and older whose parental rights have been terminated and who have a goal of emancipation.

⁵For information on AdoptUsKids, see www.adoptuskids.org.

⁶“Emancipation” is synonymous with “aging out” in this article, although these terms might have different meanings within and among States. In this article, they refer to discharges of youth to independence without having a family.

References

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