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# ‘For reasons of poverty’: court challenges to child welfare practices and mandated programs

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## Abstract

This article contributes to the ongoing debate on the role of poverty in the placement of children in out-of-home care and in family reunification. We examined court cases that successfully challenged policies of child welfare agencies resulting in children’s placement into substitute care or in failure to reunite children with their families for ‘reasons of poverty.’ We briefly describe court mandated programs and evaluate the effectiveness of one of these programs in preventing substitute care placement, facilitating more timely reunification, and reducing agency costs. We conclude that child welfare agencies have removed children from their homes and have failed to reunite children with their families for ‘reasons of poverty.’ Our analysis also indicates that providing families with economic or material resources can prevent unnecessary substitute care placement, facilitate reunification, and be cost effective. Other child welfare practice, policy, and research implications are discussed.

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## 1. Introduction

Since the beginning of the 20th century, the intention of federal child welfare policy has been to preserve families and not to remove children from their homes for ‘reasons of poverty’ except for unusual circumstances (Pelton, 1989). Despite this policy intent,

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the majority of children placed into substitute care historically have been poor (Pelton, 1994). The government also has allocated a disproportionate amount of funding for child protection services to poor children and to poor children's out-of-home care (U.S. House of Representatives, 1998; Faver, Crawford & Combs-Orme, 1999; Bess, Leos-Urbel & Geen, 2001).

Researchers have rigorously debated (e.g. Pelton & Milner, 1994) whether the association between poverty and the official indications of child maltreatment (Sedlak & Broadhurst, 1996) that can result in substitute care placement is causal, or attributable to a variety of other factors. These factors include biased community reporting, increased exposure of poor families to public scrutiny, and parental problems such as mental illness or substance abuse, which correlate with poverty and also predict child maltreatment. For obvious ethical and legal reasons, this debate cannot be resolved by randomly assigning families into a poor and non-poor group (Pelton, 1994). Researchers instead must gather evidence primarily from non-experimental methods. Using various statistical methods, studies have established relations between family poverty and out-of-home placements (Berry, 1991; Lindsey, 1991; Bath, Richey, & Haapala, 1992), a lower probability of family reunification after children have been removed from their homes (Barth, Courtney, Berrick, & Albert, 1994; Courtney & Wong, 1996), and a higher probability of children's reentry into substitute care after reunification (Courtney, 1995; Jones, 1998). These studies hardly resolve the debate over the nature of the relation between poverty and substitute care placement and a lower probability of reunification. Nonetheless, researchers appear to agree that maintaining poor children in substitute care incurs substantial financial costs and that the bulk of child protection funds are spent on out-of-home care, not on prevention or in-home services (Pelton, 1994; Courtney, 1999; Faver et al., 1999). If a causal link between economic hardship and child maltreatment does exist, and child welfare agencies were able to provide economic or material assistance to poor families, unnecessary out-of-home placement and more timely family reunification likely would result. These child welfare benefits, in turn, should reduce child protection costs and the child and familial costs (e.g. emotional distress and abuse) that can result from substitute care placement (Jones, 1991; Bearup & Palusci, 1999; DeRouselle, 1999).

The main objectives of this paper are to contribute to the ongoing debate on the role of poverty in the placement of children in out-of-home care and in family reunification, and to evaluate whether providing economic or material assistance can prevent unnecessary substitute care placement, facilitate reunification, and be cost effective. We achieve these objectives by first discussing theoretical links between poverty and substitute care placement and reunification. Second, we present court cases that successfully challenged policies of child welfare agencies resulting in children's placement into substitute care or in failure to reunite children with their families for 'reasons of poverty,' and describe court mandated programs instituted in response to these practices. Third, we evaluate the effectiveness of one of these programs in preventing substitute care placement, facilitating timely reunification, and reducing agency cost. Finally, we draw child welfare practice, policy, and research implications from our analysis.

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