

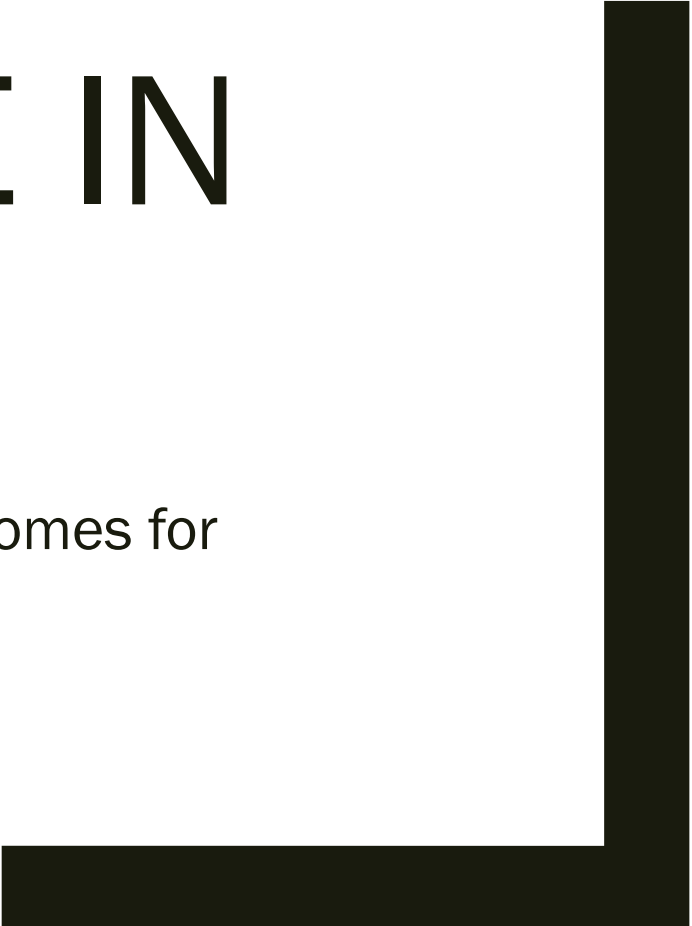


# FOSTER CARE IN AMERICA

“The Poverty Industry” creates failed outcomes for  
America’s children

*By Merissa Hamilton*

*October 1<sup>st</sup>, 2019*



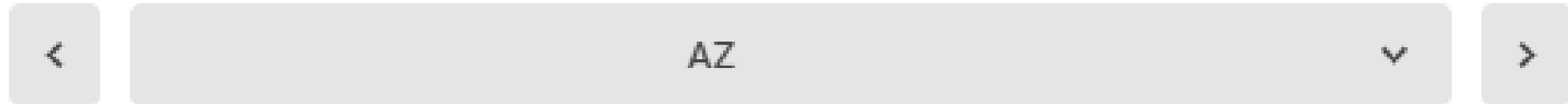
# History of Child Protective Services

- 1974 – CAPTA – Child Abuse Prevention and Treatment Act – funding juvenile courts – programs – social services
- 1997 – Adoption and Safe Families Act (Hillary Clinton)
- 2010 – CAPTA Reauthorization Act
- 2018 – Family First Act (signed by President Donald Trump)
  - 1978 – *Indian Child Welfare Act*
  - 1980 – *Adoption Assistance and Child Welfare Act*
  - 1988 – *Child Abuse Prevention, Adoption, and Family Services Act*
  - 1992 – *Child Abuse, Domestic Violence, Adoption and Family Services Act*
  - 1993 – *Family Preservation and Support Services Program Act*
  - 1993 – *Multiethnic Placement Act*
  - 1999 – *Foster Care Independence Act*
  - 2000 – *Inter-country Adoption Act*
  - 2001 – *Promoting Safe and Stable Families*
  - 2003 – *Keeping Children and Families Safe*
  - 2003 – *Adoption Promotion Act*
  - 2005 – *Fair Access Foster Care Act*
  - 2006 – *Child and family Services Improvement Act*
  - 2006 – *Tax Relief and Health Care Act*
  - 2006 – *Child Protection and Safety Act*
  - 2006 – *Safe and Timely Interstate Placement of Foster Children Act*
  - 2008 – *Fostering Connections to Success and Increasing Adoption Act*



WHAT DOES THIS  
MEAN FOR ARIZONA?

## Reasons children enter foster care:



● Abuse ● Neglect and other\*

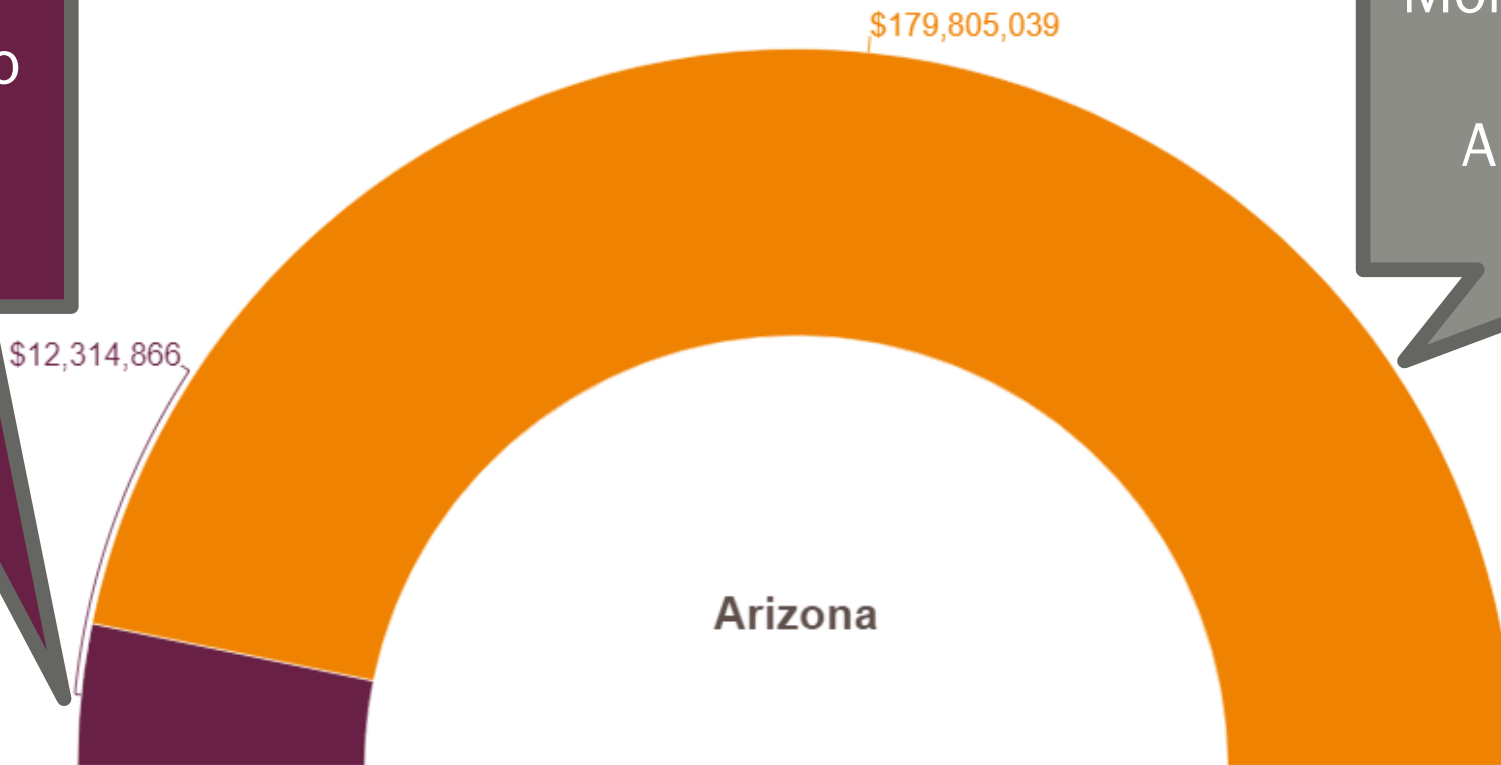
\*\*Other\* includes parental substance abuse, child substance abuse, child disability, child behavior problems, parent death, parent incarceration, caretaker inability to cope, relinquishment or inadequate housing.  
SOURCE: <https://www.casey.org/state-data/>

Here's how states invest in foster care (Title IV-E) vs. prevention and permanency services (Title IV-B).

< Arizona >

Money spent to keep families together

Money spent on family separations of American children



● Money spent on prevention services ● Money spent on foster care

SOURCE: <https://www.casey.org/state-data/>

# ASFA Launched Poverty Industry Against Families and Children

*"Sarah" is a young child that has parents living in poverty. DCS has been alerted to intervene in neglect caused by her parent's economic circumstances. AZ DCS has two programs they can choose from...*

## Title IV-B – Keep Family Together

- Funds are capped at a low amount
- State spending will be required to supplement at some point

## Title IV-E – Separate in Foster Care

- Federal funds to separate families not capped
- Program funds available for every child an agency places in foster care

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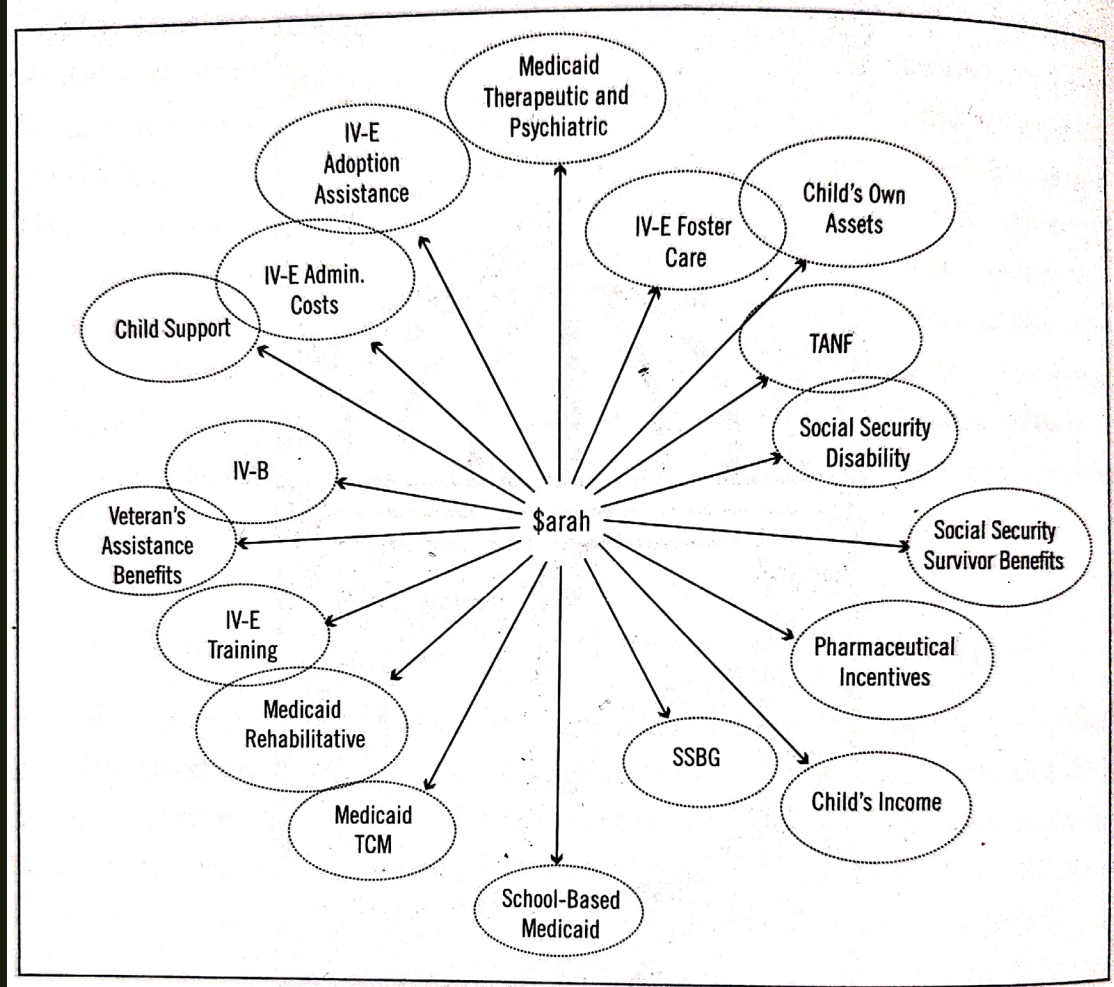


Figure 3.2. The revenue stream surrounding “\$arah.”

## “The Poverty Industry”

The marriage of private industry and government funding with little to no Federal or State oversight has led to Sarah becoming a very profitable child to the industry once she’s separated from her family.





## Explaining the Numbers

- Existing system: if baseline total adoption baseline is 1,000, and the next year 1,000 children are adopted there is no increase
- New system: if there are 1,000 adoptions and 5,000 children in foster care in the base year, the adoption rate is 20%. In the next year if there are 1,000 adoptions and 4,000 children in foster care, the adoption rate is 25%. The bonus would be \$5,000/child times the increased number of children -- 200 for a total of \$1 million dollars.
- Ohio has not received an Adoption Incentive Payment since 2003



## Improving Adoption Incentives

- The Adoption Incentive Program was extended for three years to September 30, 2016 and authorized \$43 million per year
- Changes include:
  - Inclusion of a **guardianship** benefit incentive
  - Gradual transition to an incentive based on a **state's rate of adoptions** (the number of adoptions divided by the number of children in foster care at the end of the previous fiscal year), rather than a flat numerical increase over a numerical baseline
  - Allows states up to **three years** to spend incentive payments and requires states not to use incentive payments to replace any existing child welfare funding

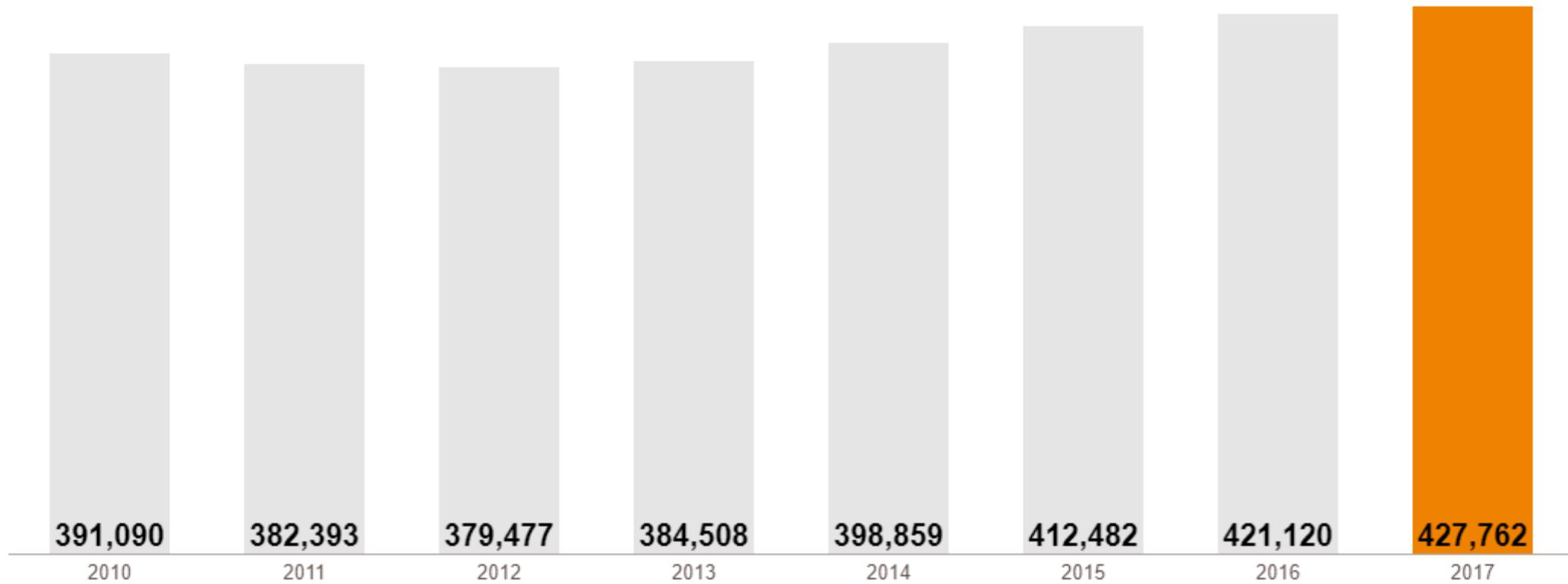
Industry has “mechanized” profit for our children

## Children under the age of 18 living in foster care:

(on September 30 of each year)

Nationally

9.3% increase in 7 years



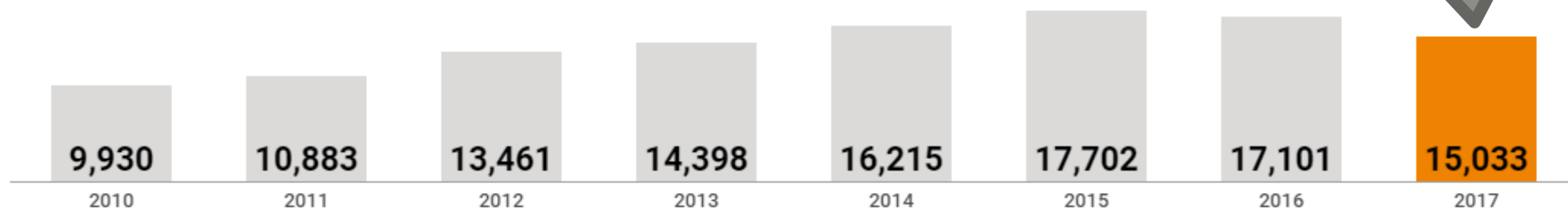
## Children under the age of 18 living in foster care:

(on September 30 of each year)

72% increase over 7 years at  
peak in 2016

State-by-state

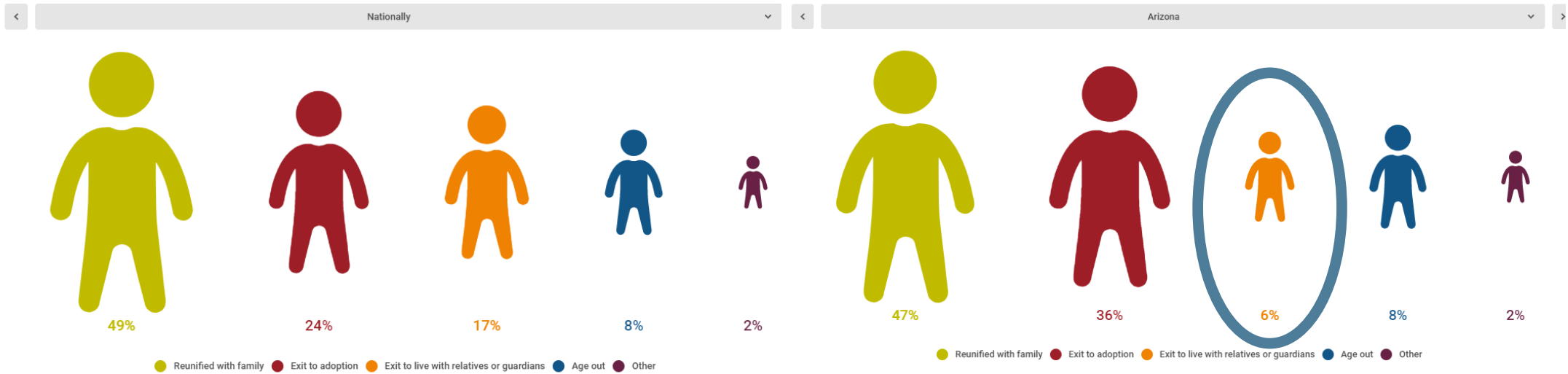
< Arizona >



HHS required Arizona to  
reduce the number of  
children in State care.

Children exiting foster care:

Children exiting foster care:



\*\*Other\*\* includes transferred to another agency, ran away or died. Numbers may not equal 100% due to rounding.

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# Kinship: Placement with Relatives was not funded under ASFA

- Arizona has only 6% placement with kinship.
- Nearly 3x less the national average

### *Forecast Methodology*

In FY 2019, we averaged SSA benefits received of \$630 per child per month. Starting with a July 2018 baseline of 397 active clients, we entered in a projection of 15 new clients each month over the course of FY 2020, which would allow us to hit our \$5.3M goal. Fifteen new clients per month is based on workload capacity.

### *Drivers*

The key driver to forecast benefits is the number of active eligible clients. The number of eligible clients entering DCS care minus the exits will be the foundation of SSA revenue projection. The lead-time to collect new revenue (initial claims) on eligible clients ranges from 3 months to 6 months.

How potential initial claims will found:

- RSDI – Notified by IV-E Eligibility Unit and Adoption Subsidy Unit having Children with Disabled or Deceased Parents.
- SSI – We have started receiving potential clients from case managers.
- SSI – DCS/DDD shared cases report. (Potential 250 children)
- SSI - Social Security Administration notifies us of all placement unknowns through a monthly report.

SSI – Extract CMDP child diagnosis information. (Future)

### *Risks*

- As the number of Out-of-Home Children continues to decrease, not finding the number of disabilities we have historically.
- New RSDI Children receive less SSA Benefits than the children leaving care.
- Limited or untimely response from the case managers.
- Disability Determination Services Agency deny claims DCS feels are eligible.

## Arizona DCS Budget

- Director lists the number of Out of Home children and children with disabilities decreasing as a risk for their budget forecast
- Arizona DCS has little to no family preventative services or mechanisms to rehabilitate a family together
- Why are they relying on taking children with disabilities from their families to plan their budget?
- This is the incentive ASFA created!



# OUTCOMES FOR CHILDREN

Under ASFA



Now, consider a study released on April 7, 2005 by a large, Washington State-based foster-care provider, Casey Family Programs, and Harvard Medical School. The study used case records and interviews to assess the status of young adult “alumni” of foster care.

When compared to adults of the same age and ethnic background who did not endure foster care:

- Only 20 percent of the alumni could be said to be “doing well.” Thus, foster care failed for 80 percent.
- They have double the rate of mental illness.
- Their rate of Post Traumatic Stress Disorder was double the rate for Iraq War veterans.
- The former foster children were three times more likely to be living in poverty – and fifteen times *less* likely to have finished college.
- And nearly one-third of the alumni reported that they had been abused by a foster parent or another adult in a foster home.

## Foster Care: 80% Failure Rate

- Where’s the accountability!



Michelle Calderon's 1-year-old daughter was taken from her by the Department of Child Safety and then placed in multiple homes where she was abused. David Wallace and Bob Ortega/azcentral.com

She was physically abused. She was placed with David Frodsham, a man subsequently convicted of child molestation, who investigators suspect repeatedly sexually assaulted her and other foster children while he ran a pedophilia ring. And that would not be the worst that Devani would face.

"I was ordered by the judge not to speak to the media," Calderon said, walking away from the courthouse in Tucson that morning. "I can't say more."

Devani, meanwhile, has been assigned by DCS to another foster family.



# Shoars Family

## Children's Desires to go Home Ignored

During the course of the trial, the children let their Guardian ad litem know that they wished to speak with the judge. On April 21, the 4 older children met with the court independently of their parents. According to the court record:

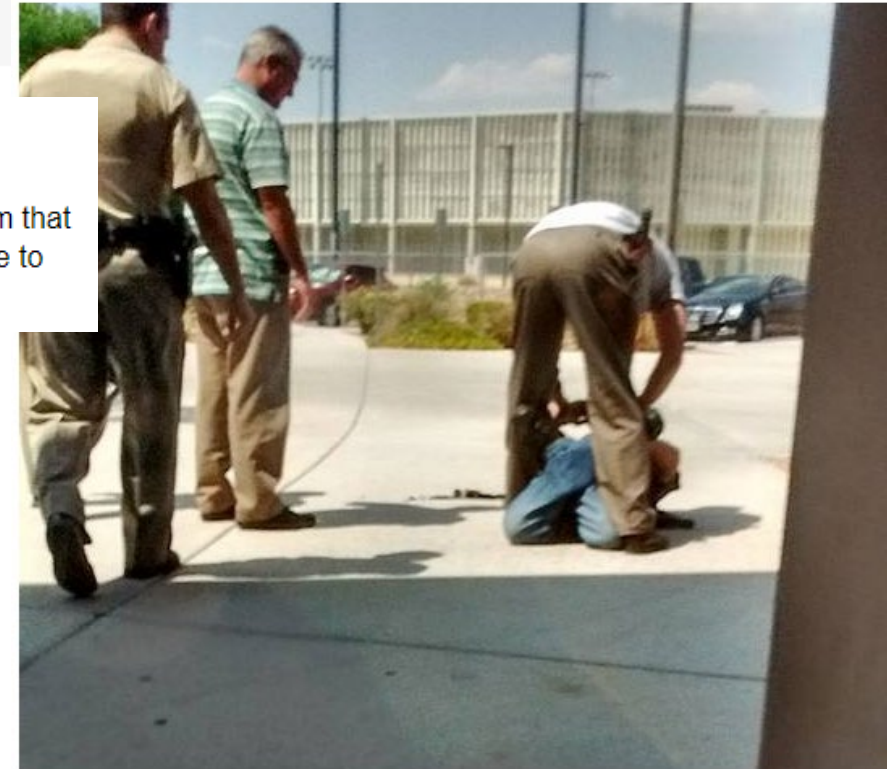
Each indicated that they loved their parents and that if they could not go home to their parents, they wanted to live with their grandparents.

## Attorney General Cancels Goodbye Visit with Children

When Tabitha and Jeff received the news that their parental rights have been terminated, Arizona DCS told them that they were scheduled for one final visitation with their children next week. They were told that they were welcome to bring the baby to the visit to see her siblings one last time.



<https://medialkdnep.com/2016/08/26/arizona-kidnaps-shoars-children-from-nevada-children-scream-in-terror-as-they-are-dragged-away-audio/>



A father restrained. All he wanted was to say goodbye to his children.  
Source: Shoars family

# Woman claiming to be grandmother of missing Buckeye boy speaks

Posted Aug 4, 2016



- No accountability at DCS for any of the suffering of the children in their care.
- Instead, Director Greg McKay was given a 33% raise.

## DCS: Jesse Wilson's <sup>adoptive</sup> mother had kids taken away in California

Documents show Crystal Wilson adopted three children even after California authorities removed six foster children from her home after allegations of neglect.

<https://www.12news.com/article/news/dcs-jesse-wilsons-mother-had-kids-taken-away-in-california/75-5253fc8f-1743-4997-bc75-3b87ace1aa9a>



# FAMILY FIRST ACT 2018

A good first step...



# Family First Act 2018

- Reduces group home funding to two weeks with special exceptions such as troubled children or crisis pregnancies
- Creates a large prevention services funding model for 12 months
  - *Services to address mental health challenges.*
  - *Substance abuse treatment.*
  - *In-home parent skill-based programs.*
- Reduced adoption incentives
- Eliminates the 15-month limit on reunification services
- Adds kinship matching funds
- Creates enhanced foster care licensing model
- Prevention of Maltreatment Deaths
- Vouchers for foster children to go to college

***Arizona waived Family First Act until 2021***



FAMILIES ARE STILL AT  
RISK DUE TO FEDERAL  
LEGISLATION

# 1. How do they do it

- Lower the threshold of “neglect”
- Remove the children without hearings - IPA
- Allow hearsay in removal hearings
- Have a low standard of proof for removal
- Contract with local hospitals to make findings of abuse / neglect
- Make parents attend programs paid by the State



Family Forward Project

## 2. How do they do it

- Lie in reports
- Make it impossible for parents to accomplish the tasks
- OR fail to acknowledge that parents have completed the tasks
- Appoint attorneys that are sympathetic to the system
- Appoint Guardian ad Litem sympathetic to the system



Family Forward Project

# 3. How do they do it

- Make the parents pay child support on removed children
- Limit contact with the children – emotionally draining both the children and parents
- Lie to the children – your parents don't want you
- Fail to disclose reports favorable to the parents



# 4. How do they do it

- Cut the children off from all contact with the family
- Coerce children into statements, false statements or silence under threat of "losing their family" or "never seeing Mommy and Daddy again"
- Pay mental health professionals to diagnose the children with severe psychological damage
- Drug the children
- Allow children to get abused in foster care – threaten them not to tell




Family Forward Project

# Laws That Allow It

- Hearsay in removal hearings
- Removal without a hearing
- Secret records
- Refusal to disclose the reporter
- No internal accountability
- No review of placements once the state has custody
- No requirement to place with another family member

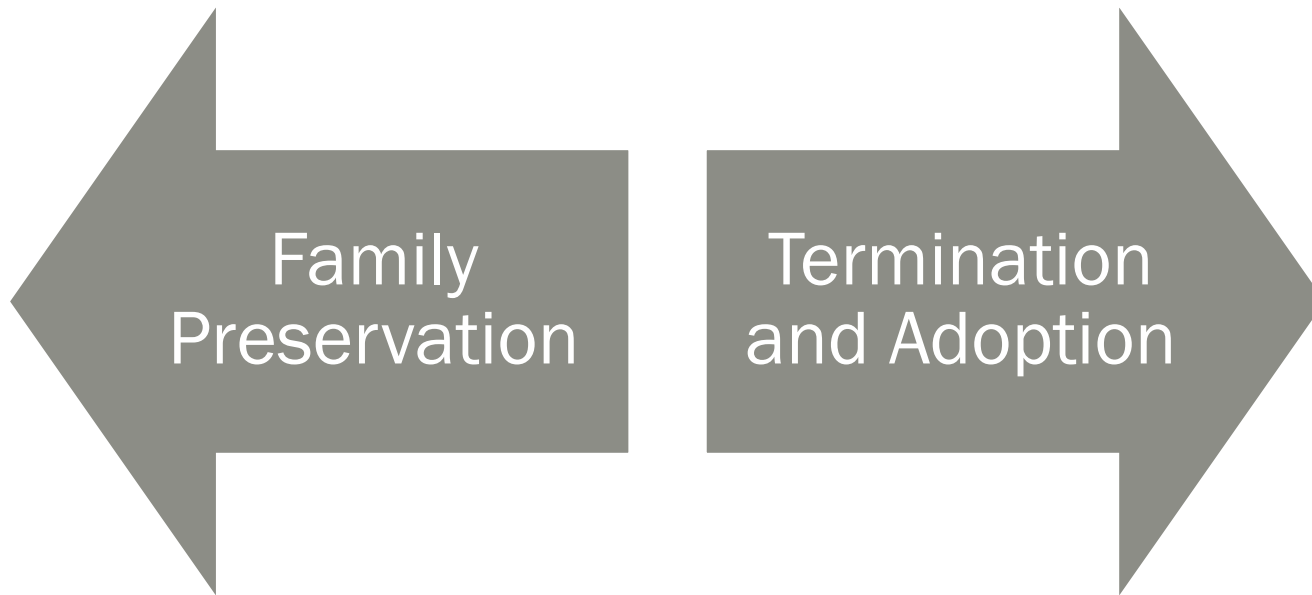


Family Forward Project



SOLUTIONS

# Antagonistic



Family Forward Project

# Interdisciplinary Legal Counsel

- NYC and Washington DC have created an interdisciplinary legal counsel model so that the services families receive are on the defendant side instead of prosecutorial in nature.
- An interdisciplinary legal counsel model provides parental advocates, social workers, therapy, etc. as wrap around services for the family as directed by their legal counsel.
- Title IV-e now pays for the costs of these programs.
- It would be helpful if this funding was converted into a *voucher program* so families can choose effective legal counsel.

- *Article with summary:*

- <https://chronicleofsocialchange.org/child-welfare-2/in-new-york-parent-defender-model-means-less-days-in-foster-care/34832>

- *Here's the study:*

- <https://www.sciencedirect.com/science/article/pii/S019074091930088X>

# Eliminate Weaponization of CAPTA Confidentiality

## Child-welfare cases are private. Does that protect the kids, or the state officials?

The Department of Child Safety's enforcement of confidentiality is peppered with exceptions — particularly when the public is paying attention.

Mary Jo Pitzl, Arizona Republic  
Updated 2:13 p.m. MST May 6, 2019

<https://www.azcentral.com/in-depth/news/local/arizona-investigations/2019/05/03/child-welfare-dcs-cases-private-does-protect-kids-or-state-officials/3491563002/>

- Exempt parents from CAPTA confidentiality. It's their children and sometimes they need help when bad actors in State government or workers exist. Community aids and advocates. (Education & Work Force House Committee, Help (Health Education Labor Pensions) Committee Senator Murray, Senator Alexander)
  - a. Documentation FAQ needs to be changed here. b. CAPTA Documentation is located here. Section (section 106(b)(2)(B)(viii) of CAPTA). i. viii. methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this title shall only be made available to— I. individuals who are the subject of the report; II. Federal, State, or local government entities, or any agent of such entities, as described in clause (ix); III. child abuse citizen review panels; IV. child fatality review panels; V. a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and VI. other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; ix. provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from child abuse and neglect; X. COMMUNITY ORGANIZATIONS AND PARENTAL ADVOCATES TO ASSIST PARENTS OR GUARDIANS IN SUCCESSFULLY COMPLET

"It seems the department selectively pulls up the confidentiality flag," said attorney DeeAn Gillespie, who encounters it in her work representing parents in DCS cases.

The secrecy, Gillespie said, fuels suspicion that DCS may be invoking it more to protect itself than the children in the case.

Complaints that DCS uses privacy when it suits them extend to no less than former Attorney General Tom Horne, whose office represented DCS.

"I didn't realize this when I was AG, but now that I'm on the other side, they habitually try to use that (privacy) unethically," said Horne, who has represented parents in DCS cases in his private legal practice.

# Oversight by the State Legislature

- Have Title IV-e funding go to the State General Budget instead of straight to DCS. This will give the Arizona Legislature additional oversight over DCS.
- Today, DCS can virtually ignore any new legislation to protect children and families since they get the funding directly from the Federal Government.
  - *a. Here is where the funding allocation is stipulated in the Social Security Act SEC. 474. [42 U.S.C. 674]. It just defines the recipient as the “State”. Wo*

# Central Registry is a Fake Child Abuse List with No Due Process

- Require States notify an individual that has been put on the Central Registry with a clear and reasonable process to appeal and be removed from this Registry.
- Parents are unable to pass many job-related background checks once put on this Registry and they have likely never even been charged with a crime.
- They are put on the Registry once their case has been opened and the Judge approves the State to have temporary custody.
- Currently only 44 States have an administrative review process. States also do not have a process to appeal after the case has completed. The current length of time in Arizona, as one example, is that this record stays in place for 25 years regardless of age of the child.
  - *a. Page 2 of the Review and Expunction of Central Registries and Reporting Records. i. 2 The word “approximately” is used to stress the fact that States frequently amend their laws. This information is current through May 2018. The States that provide for administrative review include Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.*



# Reunify Families that can Recovered

- To resolve the backlog of children in group homes or unadopted foster care, family and extended family should have the opportunity for an ongoing annual review process to determine if their circumstances have changed and are now suitable for kinship placement.

# “Outcomes” Should be Measured by Success into Adulthood

- More detailed reporting on the outcome of children in State care is needed. What is the success rate of our youth aging out of the system? How many are entering into an apprenticeship, trade school or secondary education? Is there a relationship to those in the homeless or criminal justice communities versus those that aged out of the foster care system?
- What is the breakdown of “Neglect”?
  - *More detailed reporting on the sub-categories that fall under Neglect. Additional reporting is needed for community stakeholders to address the needs of families from a preventative tactical position, so Arizona families are strengthened.*

ALMA S. v. DEPARTMENT OF CHILD SAFETY  
JUSTICE BOLICK, Concurring in the Result

¶39 For many if not most people who are fortunate enough to be parents, the loss of their children is far graver than any possible loss of liberty. It may very well be that the vast majority of parents against whom DCS files termination proceedings deserve ultimately to lose their children. But the framework set forth by the Court today and in other recent decisions allows for the very real possibility that parents who have rehabilitated themselves, who have followed our cumbersome rules to the best of their ability, who have retained a strong familial bond, and who have manifested the ability to parent, will nonetheless lose their children irrevocably. That is not only constitutionally impermissible but intolerable in a free society.

## Domestic Violence

- Overhaul the process we put families in domestic violence or sexual assault situations. We must have a system that protects both the children and the adult victim whenever possible. The whole family should be rehabilitated from violent experiences together when possible.

BOLICK, J., dissenting.

¶33 Twenty-five minutes. That is how quickly the State of Arizona can permanently dissolve a parent's legal relationship with her children. Not only after a full and fair evidentiary hearing intended and designed for that purpose, but, as here, during a routine status conference hastily converted into a final termination proceeding. Such a truncated proceeding and its consequences are intolerable in a free society that values the family relationship and guarantees due process of law. Because our law, properly construed, provides that a parent need only show good cause for her absence from a hearing in order to set aside the judgment in such circumstances, I respectfully dissent.

IV.

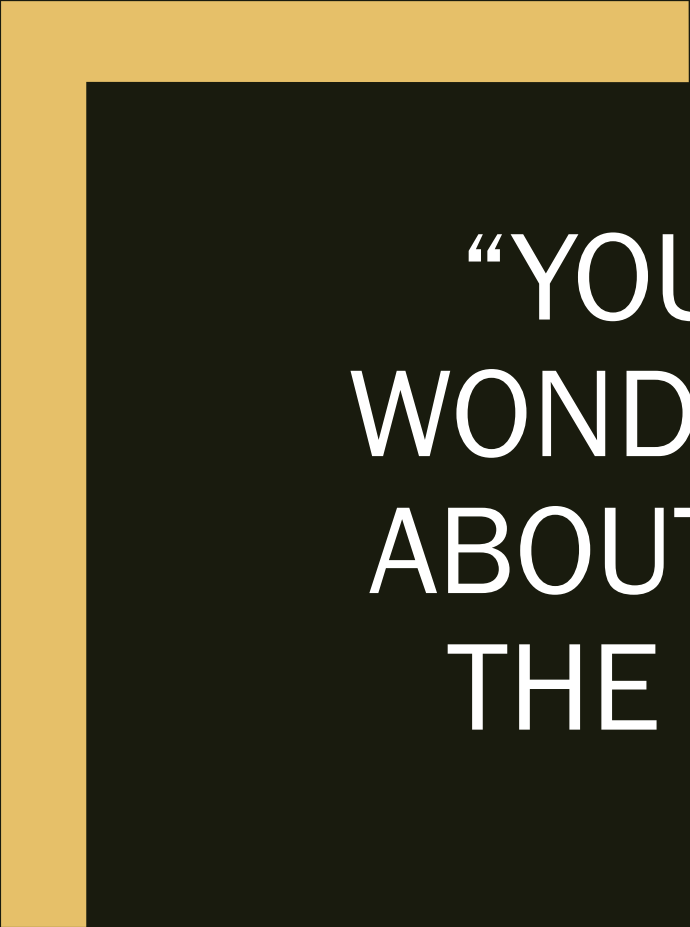
¶72 Little is likely to change as a result of today's decision because the process is already overwhelmingly weighted against a parent seeking to preserve her legal status in a termination proceeding. As I recently observed, according to DCS statistics, termination petitions in recent years resulted in severance of parental rights approximately 99.94% of the time. *Alma S.*, 245 Ariz. at 153 ¶ 28 (Bolick, J., concurring in the result). But with each decision by this Court, the playing field grows more uneven, and the precious constitutional protections to which all parents are entitled further erode.

¶73 Nothing in this dissenting opinion should be taken to impugn DCS or its vital mission to protect vulnerable children. But the process our state has constructed creates the very real prospect that parents will lose their children not because they deserve to, but because they are unable to effectively defend their rights in a system that is stacked hopelessly against them. For those reasons, and with great respect to my colleagues, I dissent.



**In twenty-five minutes an administrative law judge can terminate your family.**





**“YOU GO THROUGH LIFE  
WONDERING WHAT IS IT ALL  
ABOUT. BUT AT THE END OF  
THE DAY, IT’S ALL ABOUT  
FAMILY”**

Rod Stewart

