The Legal Intelligencer

COMMENTARY

Ensuring Safer Foster Care Placements Is Possible

Daniel Pollack and Cameron R. Getto | September 15, 2021



We read one shocking story after another describing the gruesome details of a child abused in foster care. Does there exist data that can help social service agencies decide which foster children might be at greater risk if they are placed in families with certain profiles? The answer is "yes" and using it means a lot of pain, suffering and lawsuits could be avoided. For instance, are certain foster children more likely to be

abused by the foster parents' biological children or other foster children if there is too great of an age gap, or if other characteristics are present?

While car insurance underwriters don't have crystal balls, they do have actuarial tables. Comprised of pre-analyzed data indicating what type of drivers and cars will more likely become involved in an accident, they provide valuable information. Prior lawsuits and data kept by child welfare departments contain clues regarding what types of foster children were abused or were abusive in specific kinds of placements. Using this knowledge could help ensure safer foster care placements.

There is no question that foster placements involve some risk. To minimize the risk, states employ rules, regulations and other administrative guidance to determine whether a particular family is suitable to accept foster placements. Prospective foster parents commonly fill out applications and are evaluated pursuant to various minimum criteria, including one or more home visits. Placement agencies review financial documents, home ownership documents or leases. Agencies will interview references and perform required background checks.

Conceptually, this approach essentially creates a one-size-fits-all minimum standard that must be met prior to allowing placement of foster children with the family. The presumption is that by using a relatively robust minimum standard, the parents and placements that are approved will uniformly be suitable for all foster placements.

What if all of the data gathered during the application and approval process was analyzed from an actuarial standpoint? Sophisticated decision algorithms could allow placement staff to select the most

compatible foster home while taking into account evidence-based clinical guidelines. Internet searches use a sophisticated algorithm called "page rank." By searching for key terms, the user can quickly arrive at suggested websites that should be very near their desired destination. Might something similar be a child placement aid? Instead of merely checking to see if a minimum standard was met this data could be used to both minimize risk and track the success of foster placements in both the short term and the long term. One goal might be to determine foster placements that meet a "best fit" type of criteria rather than assuming every potential foster child will thrive in any home that meets minimum criteria.

A potential pitfall of this approach is the tendency for actuarial data to better describe groups rather than individuals. These types of statistical analyses do a great job of demonstrating the likelihood of a particular outcome within a sizable group, but they are less effective at identifying an individual placement in which the poor outcome is likely to occur. One approach to addressing this issue would be to identify data points that appear to affect outcomes more than others, and focus on screening placements with these data points in mind.

One primary goal of a foster care placement program should be to minimize the risk to a child. Using all available data rather than the onesize-fits-all model, or possibly some combination of both, seems more effective and more likely to succeed.

Daniel Pollack is an attorney and professor at Yeshiva University's School of Social Work in New York City. He is also a commissioner of Game Over:

Commission to Protect Youth Athletes (Larry Nassar Commission), housed at ChildUSA, University of Pennsylvania. Contact him at dpollack@yu.edu.

Cameron R. Getto is a shareholder with Zausmer, August & Caldwell in Farmington Hills, Michigan. Getto focuses his practice on representing nonprofits, health care professionals, and human services organizations in complex litigation and professional liability matters. Contact him at cgetto@zausmer.com.