

The *Promise*

1



Of Permanency

THE PROMISE OF PERMANENCY . . .

“When we remove children from their homes through state action, there is an implied promise, a covenant if you will, to effect permanency for them timely and compassionately, and with as little damage to them and their families as possible.”

“The Promise of Permanency” (2005)

NOT A SINGLE CHILD MORE; NOT A SINGLE
DAY MORE...

Every time you touch a case file or go to
court, think, 'What would it take to the
get the child home [or in a permanent
placement] today??'

PERMANENCY PLANNING PRINCIPLES:

- Believe that reunification is the optimal goal
- Consider that termination of parental rights signals some important failure
- Adopt a kin-first philosophy
- Understand that placement stability impacts permanency
- Challenge complacency for youth who will age out w/o legal permanency
- Recognize that relational permanency can be more important than legal permanency

PERMANENCY PLAN GOALS

- Reunification
- TPR and Adoption
- Permanent Guardianship
- Another Planned Permanent Living Arrangement (APPLA)

PERMANENCY OUTCOMES: DISCHARGES (4/20-3/21)

	Forsyth	Dawson	State
Reunification	49%	47%	41%
Adoption	32%	27%	23%
Relative	0%	20%	7%
Guardianship	5%	0%	17%
Emancipation	11%	7%	11%

REUNIFICATION

“CHILDREN DON’T WANT BETTER
FAMILIES; THEY JUST WANT THEIR
FAMILIES TO BE BETTER.”

~HON. RUSSELL JACKSON

REUNIFICATION IS THE ULTIMATE GOAL!

- Preferred outcome
- Requires authentic family engagement & trauma-informed/responsive systems
 - Believe that foster care should be a service/support to families, not a substitute for parents
 - Value people-first
 - Believe that people can change
- Acknowledge power imbalance of system

MINIMUM SUFFICIENT LEVEL OF CARE



- “Lousy parenting does not necessarily equal neglectful parenting.”



MINIMUM SUFFICIENT LEVEL OF CARE

- Providing for the child's physical, emotional, and developmental needs at a basic level
- Set of minimum conditions, not ideal situation
- Remains the same when considering both removal and reunification
- Perceive the family through a resource lens

CASE PLAN IS THE ROADMAP HOME

- Based on the findings made at Adjudication
- Focused on safety concerns
- Individualized

FAMILY TIME CAN MAKE OR BREAK A PLAN

- Visitation: period of access to a child by the parent, guardian, legal custodian, sibling or other relative or any person who has demonstrated an ongoing commitment to child
- Court must order reasonable visitation that is consistent with the age and development needs of a child if it is in BIC
 - shall specify frequency, duration and terms
- Presumption that visitation shall be unsupervised unless court finds that unsupervised visits are not in the best interests

Family Time Practice Guide

A Guide to Providing Appropriate Family Time for Children in Foster Care



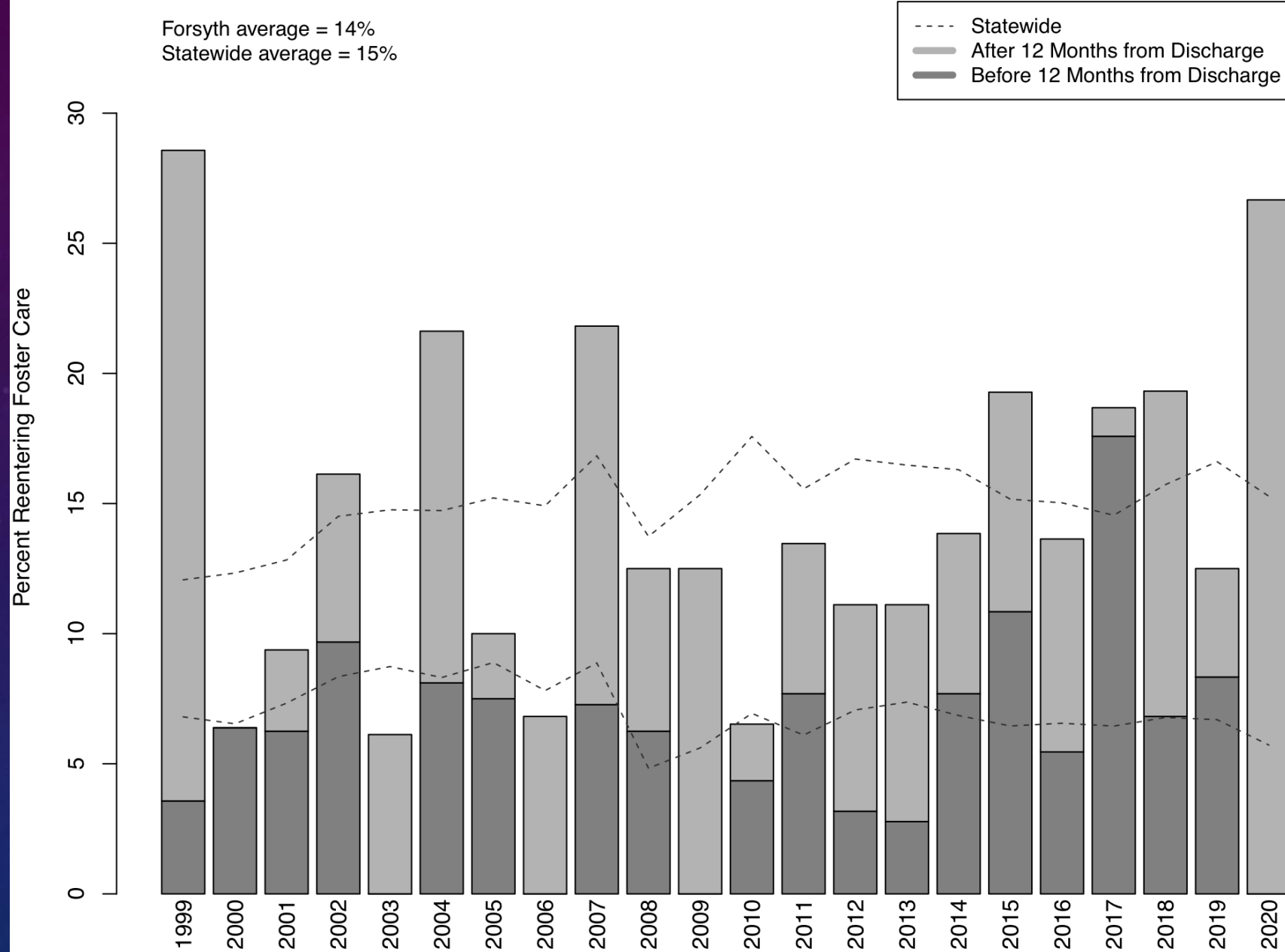
A Project of the Georgia Supreme Court Committee on Justice for Children
and the J4C Court Improvement Initiative

May 2019

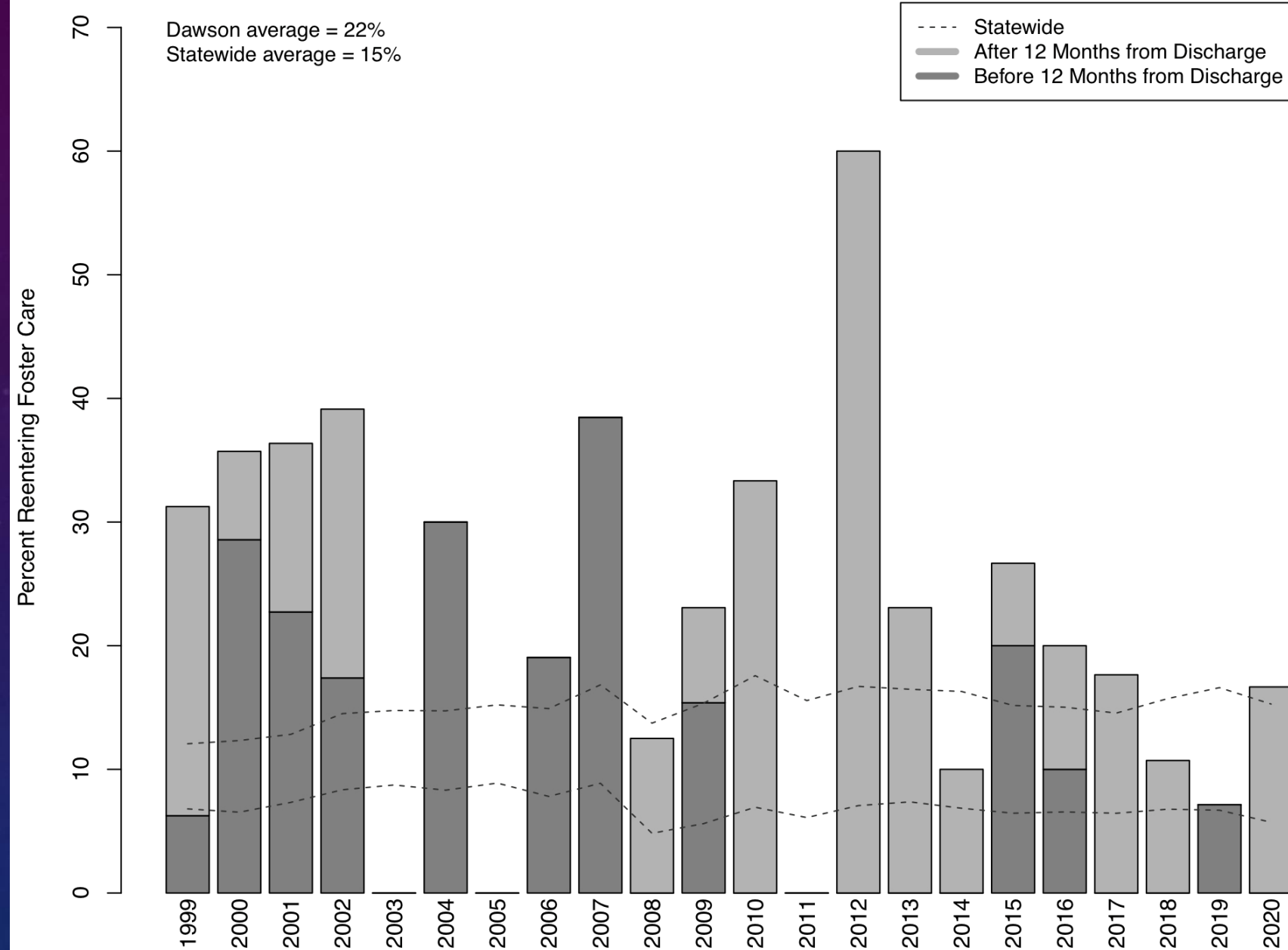
PERMANENCY PRESERVATION: PREVENTING RE-ENTRY

- Transitions
- Trial Home Visit
 - Consider progress on case plan with regards to resolving safety concerns
 - Parent demonstrated effective parenting
- After Care
 - Request after care services be ordered (usually < 6 months)

Forsyth County: Reentries to Foster Care as Percentage of Removals by Calendar Year, CY1999 through CY2020



Dawson County: Reentries to Foster Care as Percentage of Removals by Calendar Year, CY1999 through CY2020



WE DO NOT TRULY CELEBRATE
REUNIFICATION.

WE TOLERATE IT.

252 DAYS IN FOSTER CARE



BUT TODAY...

I GO HOME TO MY MOMMY ❤️

MOST COMMON BARRIERS IMPACTING REUNIFICATION

- Placement stability & long-term foster care

IS LONG-TERM FOSTER CARE BAD FOR KIDS?

1. Foster Care Placements Are Not Stable
2. Foster Care Placements Often Cut Children Off From Their Parents And Family.

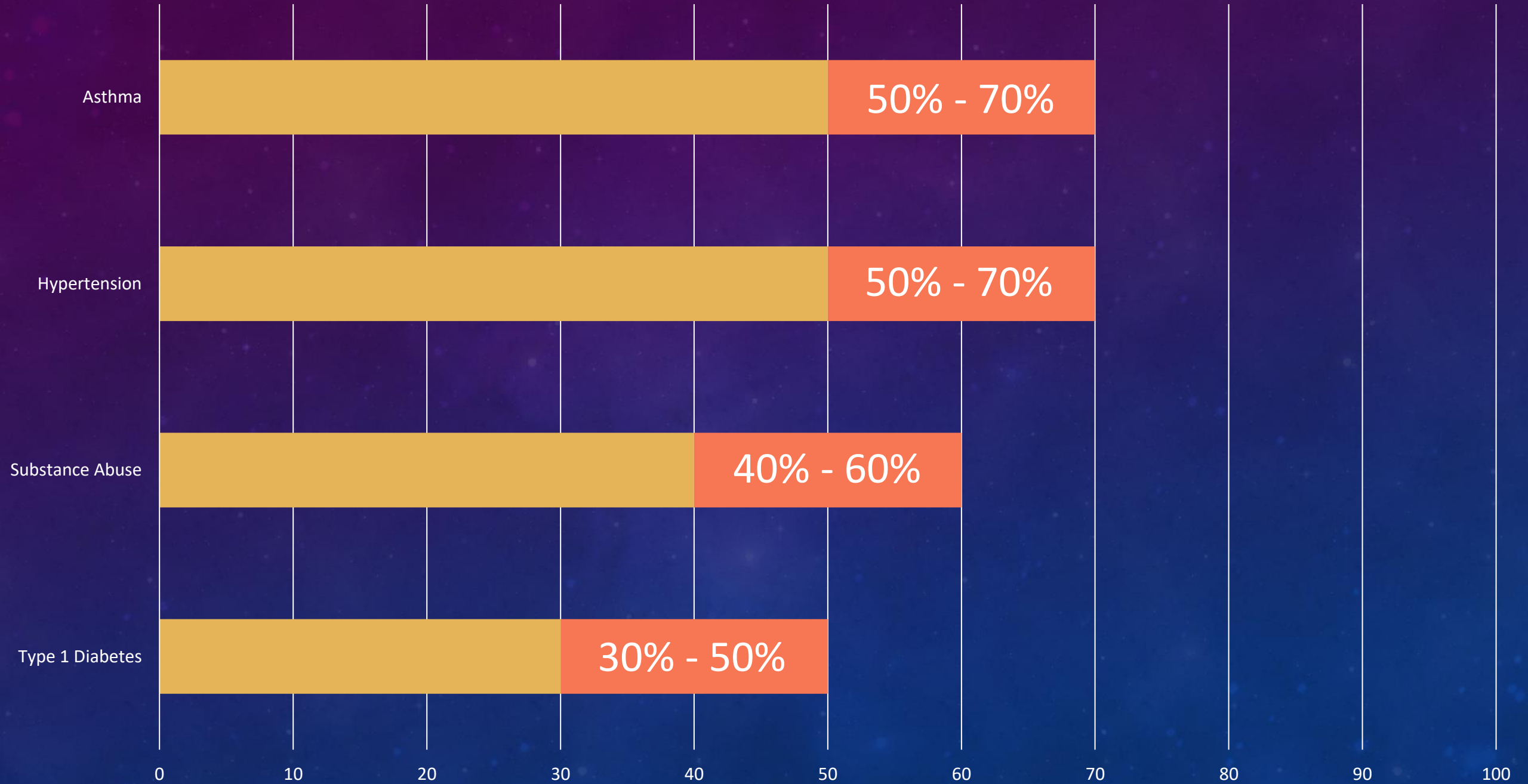
PLACEMENT (IN)STABILITY: 4/20-3/21

	Forsyth	Dawson	State
Placement moves 1 st year	4.3 per 10k	2.7	3.9
Away	24%	5%	16%
Toward	15%	27%	29%
Lateral	61%	68%	55%

MOST COMMON ISSUES IMPACTING REUNIFICATION

- Lack of evidence-based treatments

RELAPSE RATES



PARENTS ARE NOT GENERALLY RESPONSIBLE FOR FAILURES TO REUNIFY UNTIL EVIDENCE-BASED SERVICES HAVE BEEN PROVIDED.

IF EVIDENCE-BASED SERVICES ARE NOT AVAILABLE OR NOT PROVIDED, THE PARENT SHOULD SUFFER NO ADVERSE CONSEQUENCES RELATED TO THAT SERVICE.

PERMANENCY PLAN ADVOCACY
IN CASES WHERE
REUNIFICATION IS NOT
POSSIBLE

It is important to note that none of what follows applies in the following types of cases:

Abandonment

Statutory Aggravated Circumstances

Physical or sexual abuse.

CONCURRENT PLANNING

“When the case plan requires a concurrent permanency plan, the court shall review the reasonable efforts of DFCS to recruit, identify, and make a placement in a home in which a relative of a child adjudicated as a dependent child, foster parent, or **other persons who have demonstrated an ongoing commitment to the child** has agreed to provide a legally permanent home for such child in the event reunification efforts are not successful.”

O.C.G.A. §15-11-212(h)

THE ROLE OF THE NONREUNIFICATION DETERMINATION

- Nonreunification may be ordered by the court when:
 - A statutory exception exists under O.C.G.A. §15-11-203(a);
 - DFCS files a recommended case plan that does not contain reunification services and the court holds a permanency hearing;
 - The court finds sua sponte at any hearing that nonreunification is appropriate

THE ROLE OF THE NONREUNIFICATION DETERMINATION

- However the court gets to the question of NR, the facts at the hearing must support a conclusion that **the provision of reunification services would be detrimental to the child.**
- **Nonreunification is not a permanency plan.**

EXPANDED VIEW OF PERMANENCY

- Relational vs. Legal Permanence
- “Sense of belonging and security we work for and covet for our own children”
- Permanence is a mind-set, a state of permanent belonging and connectedness across a lifespan, not a placement ~Kevin Campbell
 - “Our purpose in family finding is to restore the opportunity to be unconditionally loved, to be accepted, and to be safe in a community and a family.”
- Court orders are only a part of permanency

FOCUS ON RELATIONAL PERMANENCY:

1. Relational Permanency is the most important consideration.
2. Relational Permanency should preserve the parent-child relationship unless that relationship is itself harmful to the child.
3. Relational Permanency is best achieved with a person who has a long-term, beneficial relationship with and demonstrated commitment to the child.

CONSIDERING TPR/ADOPTION

A challenge:

- Consider that every other permanency plan should be ruled out first
- Assess whether parent-child relationship is “irretrievably broken” (absent the exceptions just noted)

“[W]hile there is still reason to believe that positive, nurturing parent-child relationships exist, the *parens patriae* interest favors preservation, not severance, of natural familial bonds.”

Santosky v. Kramer, 102 S.Ct. 1388, 1402 (1982)

“We do not consider whether a child would be better off with a foster family when deciding to sever the natural parent-child relationship.”

~In the Interest of A.S.

WHY IS ADOPTION THE SECOND MOST USED ALTERNATIVE FOR PERMANENCY?

Is it more legally permanent?

Is it for the incentives?

Is it so children can be moved out of foster care more quickly?

DOES TPR GET KIDS TO PERMANENCY?

	Forsyth	Dawson	State
Legally Freed 4/2019-3/2020, Adopted within 12 Months	33%	25%	47%
In Non-Relative Care Over 24 Months on Mar. 31, 2021	33%	24%	32%
In Non-Relative Care Over 24 Months with both TPRs on Mar. 31, 2021	67%	58%	35%

ADOPTIONS

- Adoption is an appropriate permanency plan when:
 - the parent(s) are unable to safely care for the child or reunification is not in the child's best interest,
 - permanent, legal separation from birth family is necessary and sanctioned by the court, and
 - the child is capable of accepting and responding to family
- Consider:
 - voluntary post-adoption contracts
 - Adoption Assistance
 - Impact of disruption/dissolution

ADOPTION DISRUPTION & DISSOLUTION

- These children are at the highest risk of adoption disruption or dissolution:
 - In foster care more than three years
 - Arrive in foster care in a sibling group
 - Prenatal drug or alcohol exposure

ADOPTION DISRUPTION & DISSOLUTION

- These adoptive placements are at the highest risk of adoption disruption or dissolution:
 - Parents and children not in therapy for trauma and attachment issues (adoption itself often triggers attachment behavior)
 - Not totally committed to this child, but to an ideal child
 - Decision-making affected by nesting hormones

PERMANENT GUARDIANSHIPS

PERMANENT GUARDIANSHIPS

- Guardianship is granted to a relative or non-relative for a child who is unlikely to return home and where adoption is not in BIC
- Why guardianship?
 - Does not sever birth parents' rights/responsibilities
 - Maintains bond/connections between child and family
 - May be considered when TPR has occurred
 - Relatives and non-relatives can access subsidized guardianship payments
- Advantage of being less vulnerable to disruption than more formalized long-term foster care arrangements.
- May only be dissolved or modified if there is a material change in the child's or guardian's circumstances.
 - A temporary guardianship can be threatened whenever a parent, who has agreed to the guardianship, petitions for dissolution

PERMANENT GUARDIANSHIPS, CONT'D.

- Court retains jurisdiction for purpose of entering order following petition to modify, vacate, or revoke and appoint a new guardian
 - Superior courts have concurrent jurisdiction for enforcement or modification of child support or visitation
- Guardianship shall be modified, vacated, or revoked base upon clear and convincing evidence there has been material change in circumstance of child or guardian and the modification/vacation/revocation of order and appointment of new guardian is in BIC

ANOTHER PLANNED PERMANENT LIVING ARRANGEMENT

“At first glance, it may appear too hard.
Look again.
Always look again.”

~Mary Anne Rodmacher

BEING A TEENAGER IS A BARRIER TO PERMANENCY

4/20 – 3/21	Hall	Dawson	State
In Care 12+ Months at Age 16, Discharged to Permanence by Age 18	33%	n/a	36%
In Care with Both TPRs at Age 16, Discharged to Permanence by Age 18	40%	n/a	36%

APPLA FOR 16+

- Appropriate when reunification, adoption and guardianship have been ruled out as inappropriate or not in the BIC, and compelling reason is documented
 - Long-term foster care (agreement with caregiver for placement until foster care no longer needed)
 - Emancipation (planned arrangement for maintaining child in foster until he ages out)
 - Placement with fit and willing relative—supports continuity, family relationships, parents can petition for return of custody
- DFCS shall rule out all other permanency plans prior to selecting APPLA
 - Youth does not want to be adopted
 - Youth is in safe, stable placement committed to youth until age of majority
 - Medical needs

APPLA IS NOT THE END OF THE STORY

At every permanency hearing (at least every six months) for the life of the case, court must determine:

- (A) Whether DFCS has documented intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts to return the child to the home or to secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent, including through efforts that utilize search technology, including social media, to find biological family members for the children;
- (B) Whether DFCS has documented the steps it is taking to ensure that the child's foster family home or child care institution is following the reasonable and prudent parent standard and the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities; and
- (C) After asking the child, what his or her desired permanency outcome is

THE ROLE OF ADVOCATES IN APPLA CASES

- Advocating for well-being needs
- Promoting adult connections--stability and consistency
- May be the only visiting resource
- Continue to revisit legal permanency options
- Encourage youth to stay in care
- Ensure youth has what he needs to transition to adulthood

PERMANENCY PREFERENCES

PRESUMPTIVE PERMANENCY PREFERENCES

Why have permanency preferences?

“Permanency decisions should not be arbitrary ... [T]he best permanency decisions for children can be made within a structured decision making framework based on a carefully considered order of preference for permanency options founded on law, good practice, and just plain common sense.” ~The Promise of Permanency (2004)

PRESUMPTIVE PERMANENCY PREFERENCES WHEN REUNIFICATION IS NOT POSSIBLE

The analysis is guided by the single most important question:

**Is the parent-child relationship irretrievably broken and objectively harmful to
the child?**

**If the answer to this question is “No”, then termination of parental rights is not
appropriate.**

PARENT-CHILD RELATIONSHIP IS NOT IRRETRIEVABLY BROKEN AND HARMFUL TO THE CHILD:

1. Permanent Guardianship (PG) with relative who has an ongoing, beneficial relationship with and demonstrated commitment to child.
2. PG with fictive kin
3. PG with third party (e.g., foster parent or other individual child has met since entering care).
4. PG with relative without an ongoing relationship with child, but who can demonstrate commitment to child.

PARENT-CHILD RELATIONSHIP IS IRRETRIEVABLY BROKEN AND HARMFUL TO THE CHILD:

1. Adoption with a relative who has an ongoing, beneficial relationship with and demonstrated commitment to the child.
2. Adoption with fictive kin who has the same.
3. Adoption with a third party who has the same (e.g., foster parent or other non-relative the child has met since coming into foster care).
4. Adoption with relative without an ongoing relationship with the child, but who can demonstrate a commitment to the child.
5. Adoption with a third party without an ongoing relationship, but who can demonstrate a commitment to the child.

NO PERMANENT PLACEMENT AVAILABLE (AND CHILD IS 16+): APPLA

APPLA may apply regardless of the quality of the parent-child relationship.

APPLA placement should be with a foster family committed to providing long-term care to the child (up to two years).

“Every child needs and deserves a family. Not just a family in which to grow and develop, but a family to leave when the time is right, a family to come home to when the need demands, and a family to be a part of when childhood is only a distant memory.”

QUESTIONS? DON'T ASK US!

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