# Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis

Professor Mary Eschelbach Hansen
American University

Josh Gupta-Kagan
Senior Attorney
Children's Law Center

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**DRAFT**

**EXECUTIVE SUMMARY**

*The Problem:  Children growing up in foster care*

Thousands of DC children grow up in foster care.  More than 500 foster youth are 18 years old and over – remaining in care until their case closes at age 21.  More than 1300 foster children and youth – the majority in the abuse and neglect system – have been in foster care for more than two years.[1]  For most of the children in care for more than two years reunification is not an appropriate goal.[2]  Growing up in foster care means growing up without a permanent family, without the legal connections or lifelong supports that most people take for granted.

Children growing up in foster care is not only bad for the District, but very expensive. Foster care costs tens of thousands of dollars a year per child – in foster care subsidies, social worker staff costs, services for foster children and their families, legal costs, and costs to send foster children to schools, doctors and therapists across the state line in Maryland.

*A policy solution:  Remove legal barriers to adoption and guardianship*

To prevent children from growing up in foster care, the government needs to find a new family to raise them; this can be done through adoption or guardianship.  Adoption creates a new parent-child relationship and terminates the rights of a child's birth parents. Guardianship creates a new custody arrangement, but permits the child's birth parents to retain some rights.

There are two significant barriers to adoption and guardianship under current law. First, adoption and guardianship subsidies cut off on a child's 18th birthday.  In contrast, foster care subsidies continue until a child turns 21.  This disparity creates a disincentive for many foster parents to become adoptive parents or gaurdians.  Children who have been in foster care, even more than other children, need support after they turn 18.

Second, foster parents who are not related to children cannot seek a guardianship subsidy.  Many foster children, especially older foster children, maintain a strong connection with and sense of identity from their biological family.  Guardianship, which provides legal permanency without severing their relationship with their biological family, is therefore often appropriate.  But the lack of non-kinship guardianship subsidies takes that option off the table for most families.

Two policy changes would remove these barriers to permanency:
- Extend adoption and guardianship subsidies until a child turns 21.

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[1] DC Child and Family Services Agency, Annual Report, Fiscal Year 2008, at 26 & 30 (2009), http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy_2008_annual_public_report.pdf.
[2] Only four percent of children in care for two years or more have a permanency goal of reunification with their parents. *Id.* at 29.

- Expand guardianship subsidies to include non-kinship caregivers.

*Measuring the policy's impact*

American University Professor Mary Eschelbach Hansen worked with Children's Law Center (CLC) to analyze the costs and benefits of these two policy changes. Analyzing CFSA data from 2004 through 2008, Professor Hansen projected the impact the subsidy changes would have on the permanency outcomes of children who could not return to their parents – that is, whether they would live with adoptive parents or permanent guardians, or whether they would grow up in foster care.

**Professor Hansen's analysis concluded that these policy changes would induce more than 100 new adoptions and guardianships every year.** At the low range, 110 more adoptions and guardianships are expected every year. At the middle range, 149 are expected and at the high range, 190 are expected. Without these policy changes, these 110-plus children would otherwise remain in foster care. 194 adoptions and guardianships are projected to occur regardless of these proposed changes. The proposed changes will thus increase the number of adoptions and guardianships between 57 to 99 percent.

The experience of other states confirms Professor Hansen's projections. States that have changed their policies to offer subsidies until age 21 have significantly more adoptions, and the most detailed study of a state offering non-kinship guardianship subsidies shows that such subsidies lead to significantly more children leaving foster care to permanent families. That study also demonstrated Title IV-E cost savings for subsidy policies that include non-kinship guardianship.

*Measuring the policy's costs and savings*

**Taking all the costs and savings together, the two proposed changes in law will save the District millions of dollars every year.**

Each adoption and guardianship saves the District tens of thousands of dollars. Adoption and guardianship require subsidy payments that are roughly on par with foster care subsidy payments. Foster care imposes siginificant additional costs on the District government: the high cost of congregate care, the cost of CFSA and contract agency staff to manage children's cases, the cost of CFSA-provided services for children, legal costs, and the costs of providing education, health care and mental health care to foster children living outside of the District of Columbia.

This study concludes that the savings of the proposed subsidy changes far outweigh the costs. Keeping a foster care case open is extremely expensive – about $43,000 in local funds per year per child – while adoption and guardianship subsidies are much cheaper – about $15,000 per year. That is an average savings of $28,000 or more for each adoption and each guardianship induced by the policy change.

There are additional costs. Extending subsidies to age 21 for those adoptions and guardianships that would happen regardless of the policy changes would impose a cost, but would not generate any new savings. In addition, families that would have chosen adoption but would instead choose non-kinship guardianship will create additional costs;[3] the former is eligible for federal reimbursement but the latter is not, thus requiring increased expenditures of local funds. The projected additional costs are about $625,000 per year.

With savings of $28,000 associated with each adoption or guardianship, it only takes 23 new adoptions and guardianships to offset the $625,000 in costs. Our projection is that – at the low end – these policy changes will induce 103 adoptions and guardianships. This projection translates to saving millions of dollars each year.

*Savings in the short term*

The policy changes will lead to immediate savings – even though it will take time for the changes to create their full effects.

There are three core factors that will take time to develop:

First, there will be no significant cost of subsidies for 18-21 year olds who will be adopted regardless of the policy changes in the first two years of the policy changes' effect. Without these changes, very few foster children over the age of 16 will have adoptions or guardianships. For those younger children who will have adoptions or guardianships, it will take several years before they are 18-21 years old, and thus several years before they will impose a new cost on the District government. Relatedly, the cost of subsidies for 18-21 year olds whose adoptions and guardianships are incentivized by the policy changes will also be smaller in the first years in which the changes are in effect because only foster youth adopted at a relatively older age will trigger these costs.

Second, savings that come from the reduced need for CFSA staff to manage and OAG staff to litigate foster care cases will take time to realize. These costs will likely be achieved through attrition or through agencies' annual budget processes – not immediately upon a foster child's adoption or guardianship.

Third, it will take several months for the Family Court to adjudicate new adoption and guardianship petitions triggered by these legal changes. So, in the first year, even those costs and savings that will have an immediate impact will not occur for several months.

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[3] This phenomenon, discussed in Part I.c, is outweighed by the number of non-kinship guardianships involving children who would otherwise grow up in foster care.

Calculating the immediate costs and benefits with these factors taken into account we conclude that there will still be significant net savings in the first couple years – up to $1.1 million in their first year and up to $3 million in the second year.

*A very conservative estimate*

We believe the real savings from these changes in law will be greater than this study predicts. The most significant uncaptured savings is the compounded savings over time. The cost savings demonstrated in this study occur beyond the year in which an adoption or guardianship is finalized. When a family adopts a 15 year old foster child who otherwise would have grown up in foster care, the District government will realize savings each year until the child turns 21. Because the savings outweigh the costs in any one year, those savings will compound in future years.

This study does not attempt to predict the extent of these compounded savings. Such a prediction would depend on many variables, including the age of children at the time of adoption and guardianship, the evolution of foster care costs as a child grows up in foster care, and the evolution of adoption and guardianship subsidy costs as a child grows up in a permanent family.

We expect the uncaptured compounded savings will be significant, resulting in even better fiscal outcome for DC than predicted here.

There are several other cost savings that are not captured:
- This study assumes that a relatively large number of adoptions and guardianships will occur regardless of the proposed policy changes – more adoptions and guardianships than the most recent data would indicate.
- This study does not account for certain savings associated with closing foster care cases that could not be easily quantified.
- This study does not account for inflation adjustments to savings associated with closing foster care cases.
- This study does not account for reduced costs for subsidies until age 21 that occur when youth stop depending financially on adoptive parents or permanent guardians, thus making them ineligible for the subsidy.

*Conclusion*

When it comes to finding permanent families for foster children who cannot return to their birth families, policy goals and fiscal goals align. CFSA Director Dr. Roque Gerald said it best at his confirmation hearing in May 2009:

> Most importantly, if we are an effective system, our resources will be freed [to focus on] two specific areas: front end prevention . . . and the support of those families who have moved to permanency . . . . It should be in a high-

performing agency that the funds that we spend on subsidy for adoption and guardianship [are] much higher than what we're spending for kids in care.[4]

The District should invest in adoption and guardianship because it is good for children and good for the District's bottom line. Extending adoption and guardianship subsidies until age 21 and expanding guardianship subsidies to include non-kin will substantially increase the number of children who live with permanent families and it will immediately save the District money.

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[4] Testimony of Dr. Roque Gerald, District of Columbia Council, Committee on Human Services, May 13, 2009, *available at* http://oct.dc.gov/services/on_demand_video/on_demand_may_2009_week_3.shtm. The quoted language begins at hour marker 2:26.

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## Introduction

Children's advocates, the Child and Family Services Agency (CFSA), and members of the District of Columbia Council[5] have discussed the possibility of extending adoption and guardianship subsidies until such children turn 21 years old, and to expand guardianship subsidies to include permanent guardians who were not related to the child prior to the guardianship.[6] Under current District law, those subsidies end at age 18,[7] and guardianship subsidies are limited to approved kinship caregivers.[8] The goal of the proposed legislative changes is to induce more adoptions and guardianships, thus providing more children with legally permanent families and removing more children from foster care.

A consensus exists that removing barriers to adoption and guardianship and having fewer children grow up in foster care will result in better outcomes for children. The issue is whether the District can afford to extend and expand subsidies. This study, therefore, focuses on the financial impact of extending and expanding adoption and guardianship subsidies.

As a general matter, moving a child out of foster care and into a home with adoptive parents or permanent guardians saves the District money because the cost of paying an adoption or guardianship subsidy to the adoptive parent or permanent guardian is far outweighed by the savings that come from closing a foster care case. When a foster care case closes, the District saves money spent on a foster care subsidy (an amount equal or greater than the amount paid as an adoption or guardianship subsidy), the personnel costs of social workers and other staff managing a foster care case, the costs of CFSA-contracted services for foster children, the legal costs of open neglect cases in the DC Family Court, and the education, health and mental health care costs that open foster care cases impose on other District agencies.

Whether the proposed policy changes will save the District money in the aggregate, however, requires answering three questions. First, how many children will these policy changes move from foster care to adoption or guardianship who would otherwise remain in foster care? For these children, the proposed policy changes would generate significant savings. Second, how many children would move to adoption or guardianship regardless of these proposed policy changes? For these children, the proposed changes would impose additional adoption and guardianship subsidy costs without generating savings. Third, what are the best estimates of the projected adoption and guardianship subsidy costs and related

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[5] The Committee on Human Services held a public oversight hearing on "Extending Adoption and Guardianship Subsidies Until Age 21, Expanding Guardianship Subsidies to Non-Kin, and Providing Increased Post Adoption Supports and Verification Requirements" on December 12, 2008.

[6] Statutory language to implement these proposed changes is included in Appendix A.

[7] The proposed changes would provide adoption and guardianship subsidies in all cases until a child turns 21. Under current District, both end at age 18. D.C. Code §§ 4-301(e) (adoption subsidy) & 16-2399(d) (guardianship). The changes would also remove the restriction in current law on providing guardianship subsidies to anyone who is not an approved kinship caregiver. D.C. Code § 16-2399(b)(3).

[8] D.C. Code § 16-2399(b)(3).

savings?  These estimates must account for available federal funding for certain costs and for all costs that foster care imposes on CFSA and other District agencies.

This analysis contains three parts.  The first part compiles statistical analyses to predict how the policy changes will affect the number of adoptions and guardianships in the District.  It includes a statistical analysis by American University Professor Mary Eschelbach Hansen of detailed data from CFSA.  The data addresses all children who left the District's foster care system from 2004 through 2008 due to adoptions, guardianships or emancipation (aging out of foster care without a permanent family) – that is, children who needed a permanent caregiver other than their birth parents.  Based on this analysis, Professor Hansen projected the number of adoptions and guardianships that are likely to occur both because of and regardless of the proposed changes.  This analysis also estimates the number of adoptions and guardianships that will involve children with various characteristics, such as placement with a family or in congregate care prior to adoption or guardianship, placed outside the District at adoption or guardianship, and receiving special education services.  All of these characteristics will affect the ultimate costs and savings of adoptions and guardianships.

The first part also includes statistical estimates based on the experience of other states with adoption and guardianship subsidy extensions and which offer guardianship subsidies to non-kin to project.  The various projections are compiled to predict a range of likely impacts.

The second part applies the projections from Part I to calculate the costs and savings associated with the changes.  Part II explains in detail the variables that affect those costs and savings, including federal funding for adoption, guardianship and foster care subsidies, and the various costs associated with foster care, including staff costs, foster care subsidies, other placement costs, legal costs, and interjurisdictional education and health care costs.  Comparing the costs and savings, Part II will show that the savings generated by the legislative changes will outweigh the costs by several million dollars every year.

The third part applies the analysis of Parts I and II to the first two years that the legislative changes will be in effect.  This part takes into account real world considerations that will prevent some of the costs and savings discussed in Parts I and II from taking effect immediately.  Due to the delayed effect of some changes, the net savings will be somewhat less in the first two years of the policy changes than in later years.  Nonetheless, the changes will still generate savings in the first two years in which they are in effect.


## Background: Foster care, adoption, and guardianship

Foster care is temporary government custody.  When the government places a child in foster care to protect the child from a parent's abuse or neglect, the child should not remain in foster care for long.  When children cannot safely return to their parents, the abuse and neglect system tries to find other adults to adopt them or become their permanent guardians.  When children cannot return to their parents and the system cannot find adoptive parents or

permanent guardians, children grow up in foster care – meaning they grow up without a permanent family, without the legal connections or lifelong supports that most people take for granted.

Adoption[9] creates a new parent-child relationship and terminates the legal relationship between biological parents and children.  Adoptive families have all the same legal rights and responsibilities as biological families.

Permanent guardianship[10] provides abused and neglected children[11] with a legally permanent family relationship but without terminating the relationship between parents and children. Permanent guardians have custody of children and the power to make most crucial decisions for them.  Guardianship is especially appropriate for children who have a strong bond with their parents even if they can't live with them.

Both adoption and guardianship are permanent arrangements.  Both take a child out of foster care and into a family.  Foster care, in contrast, is temporary.  Adoptive parents and permanent guardians are responsible for raising children – including all the expenses that entails.  Foster care, in contrast, leaves the government financially responsible for all of the costs that come with raising children.

The District has had significant problems in helping foster children find permanent families.  Far too many foster children cannot return to their parents, but have not been placed with adoptive parents or permanent guardians.  More than 1300 foster children – a majority of the foster care system – have been in foster care for more than two years.[12]  More than 500 foster youth are 18 and older – sitting in foster care until they turn 21 and "emancipate."[13]  Once children stay in foster care for more than two years, it is not likely that they will return to their parents – less than four percent of foster children who have been in care for two years or more have a permanency goal of reunification.[14]  If the District cannot place these children with adoptive parents or permanent guardians, they will likely grow up in foster care.

## I.    Projecting the impact of proposed policy changes

The projections described here have two bases.  First is a set of projections developed by Professor Mary Hansen, an American University economist who has published widely on

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[9] D.C. Code § 16-301 *et seq.*
[10] D.C. Code § 16-2381 *et seq.*
[11] Only children adjudicated to be abused or neglected are eligible for guardianship.  D.C. Code § 16-2383(a).
[12] DC Child and Family Services Agency, Annual Report, Fiscal Year 2008, at 30 (2009),
http://cfsa.dc.gov/cfsa/frames.asp?doc=/cfsa/lib/cfsa/pdf/fy_2008_annual_public_report.pdf.
[13] *Id.* at 26.
[14] *Id.* at 29.

the economics of adoption.[15]  CFSA provided Professor Hansen with detailed information from its database, with child and family-identifying details removed, from which she estimated the effect of extending subsidies until age 21 on the number of adoptions and guardianships.  Second are studies of other states' experience with identical policy changes from which we can estimate the effect of those same changes in the District – both extending subsidies until age 21, and opening guardianship subsidies to non-kin.

    *a.  Analysis by Professor Mary Eschelbach Hansen*

    *i.*   <u>Professor Hansen's sources and methodology</u>

Professor Hansen has worked on District-specific adoption and guardianship subsidy policy since December 2008, when she testified at a District of Columbia Council roundtable on subsidy policy.  Subsequently, she met with CFSA officials, who agreed to share child-specific de-identified data with her so she could project the effects of extending adoption and guardianship subsidies to age 21.  Professor Hansen reviewed AFCARS foster care data, which is extracted from FACES for all AFCARS reporting periods from 2004 through 2008.[16]

Professor Hansen then evaluated all available variables and their effect on foster children's permanency outcomes.

The data from CFSA allowed Professor Hansen to make nuanced predictions not only about how changes in subsidy policy would affect the overall numbers of adoptions and guardianships, but how those changes would affect different subgroups of foster children – such as children of different ages, children who live in the District or in other states (especially Maryland), children in different types of foster care placements, and children with special education needs.

Professor Hansen's projections assume that core demographic factors over the next five years – such as the number of children in foster care – will be roughly comparable to such factors that existed in the past five years.  Put another way, Professor Hansen's analysis does not account for unexpected changes in the District's foster care population, such as a dramatic increase or decrease in the number of children entering foster care for the first time or reunifying with their parents.

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[15] Professor Hansen's cv is available at http://academic2.american.edu/~mhansen. Professor Hansen is currently ill and unable to work further on this project.  She developed the analysis discussed in the text.  CFSA later provided more detailed data which Professor Hansen had hoped to analyze, but has not been able to analyze due to her illness.  Professor Hansen has reviewed her initial analysis and their application throughout this document and concurs that it is the best analysis available of the likely impact of the proposed changes.

[16] Professor Hansen's data set excluded children who left foster care to reunification.  Those children were never in need of a new permanent family, while those in her data set either obtained a new permanent family through adoption or guardianship, or needed one but left foster care without one.

Professor Hansen proceeded in three steps. First, she used logit regression to identify the effect of all placement characteristics (such as kinship foster home, traditional foster home, group home; living in the District, living in Maryland) and child characteristics (such as receiving special education services) in AFCARS on exits to permanency. The effect of selected variables are listed in Table 1. Positive figures increased the likelihood that foster children would leave foster care to adoption or guardianship and negative figures decreased that likelihood. Factors not listed in the table did not have a statistically significant impact, but all available variables were retained in the model because of the strong suspicion that statistical significance is understated due to multi-colinearity. Controls for year of exit remove the effect of year-to-year differences in placement rates that are not related to parental behavior, but might instead originate within the Department or community (the Jacks crisis, for example). There were 3,334 observations with complete data. The model had a good fit: The pseudo-$R^2$ of the logit model was 0.49; successes and failures were both correctly predicted in about one-half the cases.

Table 1: Marginal Effects of Changes in Case Characteristics from Logit Estimation

| Dependent Variable | Change in Probability of Permanent Placement (adoption or guardianship) | 95% confidence Interval | |
|---|---|---|---|
| Increase in Payment of 10% | 2.6% | 1.8% | 3.4% |
| Age at Current Removal | 0.0% | 0.0% | 0.0% |
| Length of Current Placement | 0.1% | 0.0% | 0.1% |
| Has a Special Need | -1.9% | -3.6% | -0.1% |
| Removed for Physical Abuse | -2.5% | -3.8% | -1.3% |
| Removed for Child Drug Abuse | -3.0% | -5.1% | -0.8% |
| Parent Deceased | 1.4% | -5.6% | 8.4% |
| Removed for Caretaker Inability | 4.0% | 0.6% | 7.4% |
| Relinquished | -4.8% | -6.2% | -3.4% |
| Setting is Group Home | -5.5% | -7.4% | -3.6% |
| Setting is Relative Foster Care | 31.7% | 10.0% | 53.4% |
| Setting is Sup. Indep. Living | -5.5% | -7.5% | -3.5% |
| DC Provider | 2.2% | 0.7% | 3.7% |
| Estimate controls for overall decline across system through a year-effect. | | | |

Second, Professor Hansen calculated the how the extension of the adoption or guardianship subsidy to age 21 would affect the present value of the subsidy to the prospective adoptive parent or guardian. Present value accurately captures a subsidy's financial value of a subsidy to a prospective adoptive parent or permanent guardian at the time that individual decides whether to become a parent or guardian. Offering a subsidy until age 21 instead of age 18 increases the present value of a subsidy; the older (i.e. closer to age 18) the child is, the sooner the adoptive parent or guardian will receive the subsidy extension and the greater the subsidy extension is worth in present value terms. The results are listed in Table 2.

Table 2: Present Value of Extension, as Percent of Present Value at Age of Placement

| Age at Placement | Present Value |
|---|---|
| 1 to 2 | 19 |
| 2 to 3 | 20 |
| 3 to 4 | 21 |
| 4 to 5 | 22 |
| 5 to 6 | 23 |
| 6 to 7 | 24 |
| 7 to 8 | 25 |
| 8 to 9 | 27 |
| 9 to 10 | 29 |
| 10 to 11 | 31 |
| 11 to 12 | 34 |
| 12 to 13 | 38 |
| 13 to 14 | 42 |
| 14 to 15 | 47 |
| 15 to 16 | 54 |
| 16 to 17 | 64 |
| 17 to 18 | 67 |
| > 18 | 100 |
| Assumes that monthly payment continues at same level as payment at time of finalization, adjusting for inflation. Future values are discounted at 3%. | |

Third, Professor Hansen returned to the logit estimations and asked: how many additional children would be likely to exit to permanency if the subsidy was higher by the increase in present values that extensions create? That is, based on the way families have made decisions in the past, how could the increased present value of a subsidy be expected to increase the number of children who leave foster care to adoptions or guardianships in each year?

ii. Professor Hansen's results

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        *1. Number of incentivized adoptions*

Professor Hansen projected that extending adoption and guardianship subsidies until a child turns 21 would cause a significant increase in the total number of adoptions and guardianships in the District. She projected an increase of 121 adoptions and guardianships (combined) every year. She projected that the likely impact would range from a low of 85 more adoptions and guardianships annually to a high of 158 adoptions and guardianships annually.

Professor Hansen projected the likely increases by age of child placed with an adoptive parent or permanent guardian, with a range of likely results for each age group. The range of likely results reflects the effect of the confidence interval ranges in Table 1. Those results are listed in Table 3.

Professor Hansen projected that the total number of increased permanency outcomes would be split roughly equally between adoptions and guardianships.

Table 3: Estimated Annual Number of Permanent Placements Resulting from Extension[17]

| Age | Expected | Low | High |
|-----|----------|-----|------|
| 2 - 3 | 9 | 6 | 11 |
| 3 - 4 | 9 | 6 | 12 |
| 4 - 5 | 7 | 5 | 9 |
| 5 - 6 | 4 | 3 | 6 |
| 6 - 7 | 6 | 4 | 8 |
| 7 - 8 | 7 | 5 | 9 |
| 8 - 9 | 6 | 4 | 8 |
| 9 - 10 | 10 | 7 | 13 |
| 10 - 11 | 9 | 7 | 12 |
| 11 - 12 | 11 | 7 | 14 |
| 12 - 13 | 8 | 6 | 11 |
| 13 - 14 | 8 | 5 | 10 |
| 14 - 15 | 6 | 4 | 8 |
| 15 - 16 | 4 | 3 | 5 |
| 16 - 17 | 4 | 3 | 5 |
| 17 - 18 | 2 | 1 | 2 |
| 18 - 19 | 2 | 1 | 2 |
| 19 - 20 | 2 | 1 | 2 |
| 20 - 21 | 2 | 1 | 2 |
| All Ages | 115 | 80 | 148 |

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[17] This table excludes adoptions and guardianships of children under 2 because those children are not eligible for any subsidy. As a result, the proposed policy changes would not incentivize any new adoptions or guardianships of children under 2.

As indicated in Table 3, Professor Hansen projected that the policy changes will incentivize a small number of adoptions and guardianships of 18, 19, and 20 year olds. Because under current law there are negligible numbers of such adoptions, these projections are not based on past behavior.  Rather, it is based on the assumption that 18-20 year olds and their prospective adoptive parents and permanent guardians will behave like 17 year olds and their prospective adoptive parents and permanent guardians.  Therefore, the projected number of incentivized adoptions and guardianships for 17 year olds equals the projected number for 18 year olds, which equals that for 19 and 20 year olds.

Based on the age ranges listed in Table 3, Professor Hansen estimated the number of children in adoptions and guardianships who will be between the ages of 18 and 21 in the first year of implementation and each of the subsequent five years.  Those results are listed in Table 4.

Table 4: Number of Above Who Will be 18 to 21 in FY09-FY13

| Age | Year | Expected | Low | High |
|---|---|---|---|---|
| 18 to 21 in | 1 | 6 | 3 | 6 |
| 18 to 21 in | 2 | 12 | 6 | 12 |
| 18 to 21 in | 3 | 20 | 11 | 21 |
| 18 to 21 in | 4 | 29 | 18 | 32 |
| 18 to 21 in | 5 | 43 | 28 | 50 |
| 18 to 21 in | 6 | 60 | 40 | 73 |

2.  *Adoptions and guardianships that would occur regardless of policy changes*

Professor Hansen also estimated the number of adoptions and guardianships that would happen regardless of any proposed changes.  Reviewing adoption and guardianship data from 2004 through 2008, Hansen projected future adoptions and guardianships.

Hansen made these projections in two alternative ways.  First, she created a trend line for future adoptions and guardianships based on data since 2004.  This analysis is illustrated in Tables 5 and 6, and projects a fairly low number of adoptions and guardianships.  That projection, however, is based on a relatively small number of statistical observations.

Table 5
Time Trend and Forecast of Guardianships and Adoptions



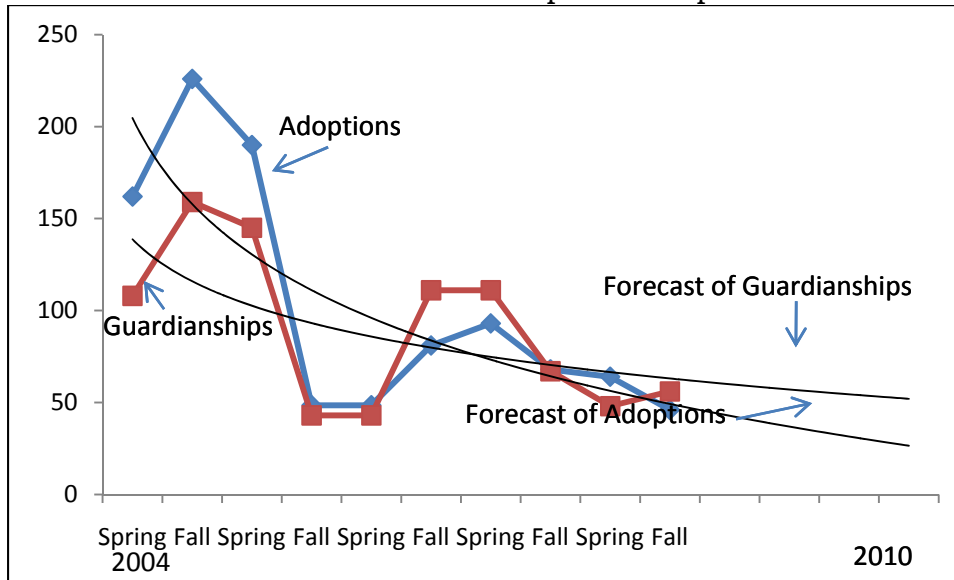Table 6
Actual and Forecast Numbers of Adoptions and Guardianships

| Year | AFCARS Run | Adoptions | Guardianships |
|------|------------|-----------|---------------|
| 2004 | Spring | 162 | 108 |
| 2004 | Fall | 226 | 159 |
| 2005 | Spring | 190 | 145 |
| 2005 | Fall | 48.5 | 43 |
| 2006 | Spring | 48.5 | 43 |
| 2006 | Fall | 81 | 111 |
| 2007 | Spring | 93 | 111 |
| 2007 | Fall | 68 | 67 |
| 2008 | Spring | 64 | 48 |
| 2008 | Fall | 46 | 56 |
| 2009 | Spring | 48 | 54 |
| 2009 | Fall | 40 | 52 |
| 2010 | Spring | 35 | 51 |
| 2010 | Fall | 25 | 50 |

Second, Professor Hansen averaged the number of adoptions and guardianships over the past five years, yielding significantly higher results, displayed in Table 7. These results are much higher largely due to a relatively high number of adoptions and guardianships in 2004 and 2005

Table 7: Exits to Adoption, Guardianship, and Emancipation by Year

| Year | Adopted | Guardianed | Emancipated | Ratio of Adopted to Guardianed |
|---|---|---|---|---|
| 2004 | 388 | 267 | 124 | 1.45 |
| 2005 | 192 | 145 | 73 | 1.32 |
| 2006 | 176 | 197 | 176 | 0.89 |
| 2007 | 161 | 178 | 162 | 0.90 |
| 2008 | 110 | 104 | 164 | 1.06 |
| Average | 205 | 178 | 140 | 1.13 |

Since Professor Hansen performed this analysis in the spring of 2009, further data has emerged that suggests current and immediate future performance is even lower than the trend line approach. The Center for the Study of Social Policy reported that 37 permanent guardianships occurred in the first seven months of fiscal year 2009, for a pace of 63 guardianships through the entire fiscal year. The Washington Post reported that 68 children were adopted in the first nine months of fiscal year 2009, for a pace of 91 adoptions through the entire fiscal year.[18] The *actual* total number of adoptions and guardianships in fiscal year 2009 – 154 – is *lower* than what was predicted by the more pessimistic trend line approach. The number of adoptions is so low that the Mayor's most recent budget proposal reduces the line item for adoption subsidies by $1,000,000 to better reflect reduced "projected need."[19]

In deference to CFSA's well-publicized goal of increasing adoptions and guardianships and to ensure a conservative cost estimate, this study will *not* use the very low numbers predicted by the actual FY 2009 totals. We will also not use the average number of adoptions and guardianships from the previous five years, as this figure does not reflect current or recent activity. This study will instead use the mid-range estimates: Professor Hansen's projection of 194 adoptions and guardianships in 2009[20] as the baseline for expected adoptions and guardianships that will occur without the proposed changes in future years. As a further element of our conservative estimate, we assume that this figure will remain steady in future years, despite the downward trend line of the past several years.

Just as incentivized adoptions of children under 2 are excluded from this study because of the absence of subsidies for such children, adoptions and guardianships of children under 2 that would have happened regardless of our changes are excluded. Those children will not receive any subsidy and thus will receive no subsidy when they are 18-21 years old. The average percentage of children under 2 listed in Table 3 is 9.8 percent.[21] Therefore, about 19

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[18] Henri E. Cauvin, D.C. Adoptions Drop Sharply, Causing Dismay, *Washington Post*, at B1 (July 20, 2009), *available at* http://www.washingtonpost.com/wp-dyn/content/article/2009/07/19/AR2009071901430.html.

[19] Mayor's FY 2010 Amended Budget Chapters at E-28, *available at* http://budget.dc.gov.

[20] This figure represents the sum of adoptions and guardianships expected in 2009 reflected in Table 6.

[21] Children under 2 were 9.9 percent of the "expected" column, 9.4 percent of the "low" column, and 10.1% of the "high," for an average of 9.8 percent.

of these 194 adoptions will involve children under 2, leaving a total of 175 subsidized adoptions and guardianships that will occur regardless of the policy changes.

### 3. *Source of incentivized adoptions*

Professor Hansen analyzed CFSA data that provided child-specific information regarding a wide range of factors, including the foster care board rate at the time the child left care, the existence of any special need, the reason the child was removed, the setting the child lived, and whether the child's foster parent lived in DC or elsewhere. These results, reported in Table 1, show the marginal effects of different factors on the likelihood that children would achieve permanency. The results are unsurprising. For instance: Higher subsidy payments increase permanency. Placement with kin increases the likelihood of permanency. Placement in congregate care reduces the likelihood of permanency.

Using this data regarding the effect of these factors on permanency outcomes, Professor Hansen could project what proportion of adoptions and guardianships will involve children with different types of placements: inside or outside of DC, from foster homes or congregate care. As explained in Part II, these variables have important cost implications in determining the fiscal impact of the proposed policy changes.

Table 8: Percentage and Total Numbers of Expected Permanent Placements Resulting from Extension by Setting[22]

|  | Percent | Expected | Low | High |
|---|---|---|---|---|
| Total | 100% | 115 | 80 | 148 |
| Non-Relative Foster Family Home | 43.4% | 50 | 35 | 64 |
| Relative Foster Family Home | 36.3% | 42 | 29 | 54 |
| Institution | 11.2% | 13 | 9 | 17 |
| Group Home | 7.8% | 9 | 6 | 12 |
| Runaway | 1.4% | 2 | 1 | 2 |
| Supervised Independent Living | 0 | 0 | 0 | 0 |

Professor Hansen also projected that 71 percent of adoptions and guardianships induced by these policy changes would be with adoptive parents or permanent guardians who live outside of the District and 24 percent of adoptions and guardianships incentivized by these changes would involve a child with a disability, as coded in federal data reporting

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[22] Settings track the definitions provided in AFCARS, the federal data reporting system. Adoption and Foster Care Analysis Reporting System Users' Guide and Codebook at 54, http://www.ndacan.cornell.edu/NDACAN/Datasets/UserGuidePDFs/AFCARS_Guide_2000-Present.pdf.

systems.[23]  This figure is nearly identical to the percentage of foster children and youth who receive special education services.  According to a December 2007 CFSA submission to the Citizens Review Panel, 213 of 868 youth then with a goal of APPLA, guardianship, or adoption (and placed in a pre-adoptive home) received special education services – 24.5 percent.[24]  We thus project that this figure reflects the percentage of children whose adoptions or guardianships will be incentivized by these policy changes who will be receiving special education services.

> b.  *Other states' experience confirms the projections in Professor Hansen's preliminary analysis*

A recent study (jointly authored by the authors of this study) analyzed other states' experience with adoption subsidy extensions until age 21 and focused on those states that changed their policy from not offering extensions to doing so.[25]  This analysis leads to similar conclusions.

We can project the District's experience based on other states' experience in one of three ways.  First, the states that moved from not offering subsidy extension to offering such extensions saw the total number of adoptions more than double.  Applying that result to the District, we would expect an increase of more than 100 adoptions and more than 100 guardianships[26] – an even more significant impact than projected above.

Second, the states that started offering subsidy extensions saw the number of adoptions per 1,000 births increase 6.4.  Applying that figure to the District of Columbia, which has 8862 births per year,[27] yields an expected increase of 57 adoptions, and 57 guardianships.  Those 114 new adoptions and guardianships would fall close to the mid-range estimate listed in Table 3.

Third, states that started offering subsidy extensions saw the number of adoptions increase by .085 per 1,000 people.  Applying that figure to the District of Columbia, which has 591,833 people,[28] yields an expected increase of 50 adoptions per year and 50 additional guardianships each year.  Those 100 new adoptions and guardianships would fall between the low and mid-range estimates listed in Table 3.

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[23] *Id.* at 27.

[24] December 2007 data response to Citizens Review Panel.

[25] Mary Eschelbach Hansen & Josh Gupta-Kagan, *Raising the Cut-Off:  The Empirical Case for Extending Adoption and Guardianship Subsidies from Age 18 to 21*, 13 U.C. Davis J. of Juv. L. & Pol'y 1, 15-18, 28-29 (2009).

[26] The study of other states only evaluated the number of adoptions.  As guardianships occur in roughly equal numbers to adoptions and subsidy policies towards both are the same, a similar impact on the number of guardianships is expected.

[27] National Vital Stratistics Report, Births: Preliminary Data for 2007, at 12 (2009), http://www.cdc.gov/nchs/data/nvsr/nvsr57/nvsr57_12.pdf.

[28] U.S. Census Bureau, http://www.census.gov/popest/states/NST-ann-est.html.

In total, other states' experience suggest that the District may expect anywhere from 100 to 200 more adoptions and guardianships – a result consistent with the results reached in Part I.a.

The structure of various abuse and neglect related subsidies in the District makes this result unsurprising. Under current District law, children can remain in foster care – and their caregivers can obtain a subsidy – until they reach age 21, but adoption and guardianship subsidies end at age 18. This disparity will keep some children in foster care who would otherwise live with permanent families.[29]

### c. *Non-kinship guardianship*

Other states have provided guardianship subsidies to non-kin, and the presence of non-kinship guardianship has even achieved recognition within the mainstream media as a means to provide permanency to foster children, especially older foster children and youth, that enables them to remain in a foster home in which they have thrived while maintaining their connection with their birth family.[30]

The effect of these subsidies has been closely studied in one state. Illinois tracked over several years an experimental group of families which had access to non-kinship guardianship subsidies and a control group which did not. Among children living with non-kin, 9.1 percent more children in the experimental group were placed with adoptive parents or permanent guardians.[31] That is, 9.1 percent more children reached permanency with non-kinship guardianship subsidies than without. Non-kinship guardianship subsidies did divert some children from adoption by non-kin to guardianship with non-kin. The experimental group had 8.6% fewer non-kinship adoptions than the control group, and a correspondingly higher number of non-kinship guardianships.[32]

Applying these results to the District, we expect that offering non-kinship guardianship subsidies would shift 9.1 percent of children currently living with non-kin from a path towards long-term foster care to guardianship. We also expect that offering non-kinship guardianship subsidies would shift 8.6 percent of children living with non-kin from adoption to guardianship. Applied to the baseline numbers discussed above – 175 adoptions and guardianships, in roughly equal numbers plus 115 new adoptions and guardianships (a

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[29] Hansen & Gupta-Kagan, *supra*, at 11-13.

[30] Pamela Paul, *The Battle Over a Baby*, N.Y. Times Magazine, July 26, 2009, http://www.nytimes.com/2009/07/26/magazine/26lesbian-t.html?ref=magazine (describing non-kinship guardianship of teenage boy and younger sister, "Ronnie" and "Ruth").

[31] Mark F. Testa *et al.*, *Final Evaluation Report: Illinois Subsidized Guardianship Waiver Demonstration*, Children and Family Research Center (2003), *available at* http://www.cfrc.illinois.edu/pubs/Pdf.files/sgfinalreport.pdf. This figure includes slightly higher numbers of children it the experimental group who reunified with their parents, as compared with the control group. We treat all such children as having guardianships rather than reunifications because that imposes a cost on the District (of guardianship subsidies) and thus keeps the cost/benefit projections conservative.

[32] *Id.*

total of 290) – we expect that non-kinship guardianship would increase the number of permanency outcomes to increase from 290 to 310, an increase of 26 per year. We would expect 24 adoptions to become guardianships. If the baseline data is 142 adoptions and 142 guardianships (a total of 284), we project that offering non-kinship guardianship subsidies would increase the number of guardianships to 192 and reduce the number of adoptions to 118. Guardianships would represent 62 percent of all permanency outcomes and adoptions 38 percent. Excluding new (not diverted) non-kinship guardianships, there would be 142 kinship guardianships, 24 shifted non-kinship guardianships, and 118 adoptions, and kinship guardianships would represent 50 percent, shifted non-kinship guardianships 8 percent and adoptions 42 percent of the total.

It is not possible to project the type of foster care placement from which children in incentivized non-kinship guardianships will move from. We will project that all will come from foster homes – because it is designed for youth with strong bonds to both foster parents and biological families. This is also a conservative estimate as foster homes are the least expensive placement.

d. *Total projected impact on adoption and guardianship numbers*

As described in Part I.a, the expected number of new adoptions and guardianships due to extending subsidies until age 21 is 115 annually, with the low range of projected adoptions and guardianships 80 and the high range 148. Recalculating the number of non-kinship guardianship projected for each category in the same manner that these numbers were calculated in Part I.c, we project the range of total numbers listed in Table 9 below.

Table 9: Total projected adoptions and guardianships

|  | A. Total adoptions & ghips | B. Total new adoptions & gships | C. New kinship gships | D. New non-kin gships | E. Shifted non-kin gships | F. New adoptions |
|---|---|---|---|---|---|---|
| Expected | 316 | 141 | 58 | 26 | 25 | 53 |
| Low | 278 | 103 | 40 | 23 | 22 | 37 |
| High | 353 | 177 | 74 | 29 | 28 | 68 |

These overall numbers are the most important numbers in this fiscal analysis. The total number of new adoptions, kinship guardianships, and non-kinship guardianships will drive both cost estimates – because each new adoption and guardianship will require the District to pay for adoption or guardianship subsidies until the child at issue turns 21 – and savings estimates – because each incentivized adoption and guardianship will save the District a variety of costs.

1. Estimates needed to project costs

The next set of data points are the number of youth living with adoptive parents and permanent guardians who will be between the ages of 18 and 21 in a given fiscal year. We

start with Professor Hansen's projections listed in Table 4; these are her estimates for the numbers of 18-21 year olds entitled to an adoption or guardianship subsidy in any specific year. These projections are a function of the total number of new adoptions and guardianships and the age of children at permanency. If the policy changes induce an adoption of a 16 year old in FY 2010, that 16 year old will get a subsidy extension in FY 2012 when she is 18.

Professor Hansen's figures in Table 4 account only for those adoptions and guardianships incentivized by the extension of subsidies until age 21, so we must add to them projections of adoptions and guardianships that would occur regardless of these policy changes. (Federal funding is unavailable for non-kinship guardianship subsidies for children of all ages, so nothing changes for this category of guardianships when a child reaches age 18. We therefore do not need to account for youth in non-kinship guardianships who will be between 18 and 21 in any given year.)

To account for the number of 18-21 year olds among the 175 children and youth who will have adoptions or guardianships regardless of these changes, we assume that those children will have the same age range as the children whose adoptions and guardianships will be induced by the policy changes. Thus the number of children between the ages of 18 and 21 in any given fiscal year will follow the same calculations as in Table 4. Applying those patterns to these 175 children and youth yields the following results:

Table10: Number of youth who will leave foster care to adoption or guardianship regardless of our policy changes who will be 18-21 years old, by fiscal year

| Age          | Year | Number |
|--------------|------|--------|
| 18 to 21 in  | 1    | 0      |
| 18 to 21 in  | 2    | 3      |
| 18 to 21 in  | 3    | 12     |
| 18 to 21 in  | 4    | 27     |
| 18 to 21 in  | 5    | 49     |

Adding those numbers to the numbers in Table 4 yields the following results:

Table 11: Total number of youth in adoptions and guardianships who will be 18-21 years old, by fiscal year

| Age          | Year | Expected | Low | High |
|--------------|------|----------|-----|------|
| 18 to 21 in  | 1    | 6        | 4   | 6    |
| 18 to 21 in  | 2    | 15       | 9   | 15   |
| 18 to 21 in  | 3    | 32       | 23  | 33   |
| 18 to 21 in  | 4    | 56       | 45  | 59   |
| 18 to 21 in  | 5    | 92       | 77  | 99   |

We next need to break out from the aggregate adoptions, kinship guardianships, and non-kinship guardianships. As explained in Part II.a, each of these categories involves different federal reimbursement rates and thus have different cost implications. Applying the proportions discussed in Part I.c – 50 percent kinship guardianships and 42 percent adoptions – yields the following figures:

Table 12: Number of Children in Kinship Guardianships who will be 18-21, by fiscal year

| Year | Year | Expected | Low | High |
|---|---|---|---|---|
| 18 to 21 in | 1 | 3 | 2 | 3 |
| 18 to 21 in | 2 | 7 | 5 | 7 |
| 18 to 21 in | 3 | 16 | 12 | 16 |
| 18 to 21 in | 4 | 28 | 23 | 30 |
| 18 to 21 in | 5 | 46 | 39 | 50 |

Table 13: Number of Children in Adoptions Who Will be 18 to 21, by fiscal year

| Age | Year | Expected | Low | High |
|---|---|---|---|---|
| 18 to 21 in | 1 | 3 | 1 | 3 |
| 18 to 21 in | 2 | 6 | 4 | 6 |
| 18 to 21 in | 3 | 13 | 10 | 14 |
| 18 to 21 in | 4 | 24 | 19 | 25 |
| 18 to 21 in | 5 | 39 | 32 | 42 |

2. Estimates needed to project savings

Some savings will vary depending on certain variables in a case. The first such variable is the placement in which a youth would have remained – a foster home, group home, or another source – without the adoption or guardianship induced by these proposals. To estimate those numbers, we rely on Professor Hansen's projections listed in Table 8. We project that new non-kinship guardianships involve children who would have remained in foster homes, and thus add the number of projected new non-kinship guardianships to the totals in Table 8. The results are:

Table 14: Children's placement but for adoptions and guardianships induced by the proposed policy changes

|  | Runaway | Institution | Group Home | Non-kinship foster home | Kinship foster home |
|---|---|---|---|---|---|
| **Expected** | 2 | 13 | 9 | 76 | 42 |
| **Low** | 1 | 9 | 6 | 58 | 29 |
| **High** | 2 | 17 | 12 | 93 | 54 |

The second variable is the percentage of adoptions and guardianships that will occur outside of the District of Columbia; such results shift certain costs away from the District government. Professor Hansen projected that 71 percent of all adoptions and guardianships

will occur outside of the District. This figure is consistent with the percentage of foster homes located outside of the District.[33] Applying that figure to the projected total numbers of new adoptions and guardianships yields the following results:

Table 15: Total number of induced adoptions and guardianships, by location of permanent family

|  | Total new adoptions & gships | Number in DC | Number outside of DC |
|---|---|---|---|
| Expected | 141 | 41 | 100 |
| Low | 103 | 30 | 73 |
| High | 177 | 51 | 126 |

The third key variable is the number of new adoptions and guardianships that will involve children receiving different types of educational services outside of the District of Columbia. Educating children living in a foster home outside of the District is a significant expense of foster care. Calculating these numbers will involve several variables:

a) the proportion of children who will be moved to adoptions or guardianships outside of the District: 71 percent, as noted above;
b) the proportion of affected children and youth who receive special education services: 24 percent as noted at the end of Part I.a; and
c) the proportion of affected children receiving special education services who attend non-public schools: 22.2 percent.[34]

Applying those proportions yields the following results:

Table 16: Projected number of children with induced adoptions and guardianships, by type of educational services and location of permanency

|  | A. Total new adoptions & gships | B. Number receiving special education services at permanency (A x 24%) | C. Number of adoptions and guardianships receiving special education services outside DC (B x 71%) | D. Number of adoptions & gships outside DC receiving special education services in non-public schools/public schools (C x 22.2%/77.8%) | Number receiving general education outside DC (A x 71% x 76%) |
|---|---|---|---|---|---|
| Expected | 141 | 34 | 24 | 5/19 | 76 |
| Low | 103 | 25 | 18 | 4/14 | 56 |
| High | 177 | 43 | 30 | 7/24 | 96 |

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[33] CFSA reported to the District of Columbia Council Committee on Human Services that 66 percent of its foster homes were located outside of the District of Columbia. CFSA March 2009 submission to the Committee on Human Services, Contracted and Non-Contracted Foster Homes By State As of December 31, 2008.

[34] Of the 10,837 District students with IEPs, 2403 attended nonpublic schools. http://osse.dc.gov/seo/cwp/view,a,1222,q,563398.asp (attachments 10 and 15). That is, 22.2 percent of students receiving special education services attend nonpublic schools.

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## II.    Costs and savings

The projections described in Part I provide the necessary data points to calculate the costs and savings which the proposed policy changes will cause.  Other variables include the availability of federal funding for certain expenses, the specific savings achieved and the proportion of cases in which certain savings are achieved.  This Part will analyze the costs, then the savings of the proposed policy changes, and finally project the ultimate fiscal bottom line.

This section shows the calculations for each element of costs and savings.  The figures displayed include some rounded numbers and so totals listed may appear to contain slight arithmetic errors.  That is because the totals are taken from spreadsheets based largely on unrounded numbers.

### a.   Costs of the policy changes

The cost of the proposed changes include paying adoption and guardianship subsidies to children under the age of 18 whose adoptions and guardianships are induced by these policy changes and the cost of providing adoption and guardianship subsidies to all future adoptive parents and permanent guardians for children between the ages of 18 and 21, whether or not they are induced by the changes.  The costs also include lost federal revenue for non-kinship guardianships diverted from adoption.

The total costs are a function of the number of affected children and the cost to the District of adoption and guardianship subsidies for those children.  The District's costs depend in part on federal funding for those subsidies, and the federal funding rules differ based on the age of the child and the type of permanency (adoption or guardianship).  Therefore, calculating these costs requires several data points, listed below.  We use abbreviations here for data points that will recur in the subsections below:

- **N = Number of affected children:** As estimated in Part I.
- **PS (Permanency Subsidy):**  The median annual cost of an adoption or guardianship subsidy, which is $11,835 in FY 2009.[35]  The figures below, based on CFSA data, reflect a 3.5% annual cost of living increase.
  - $PS_{Year1} = \$11,835$

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[35] The Child and Family Services Agency provided the following "adjusted average monthly subsidy payment" figures: $1056.46 in FY'11, $1093.43 in FY'12, $1131.70 in FY'13, and $1171.31 in FY'14.  These figures reflect an annual cost of living adjustment of 3.5%.  Average annual subsidies were calculated by multiplying monthly subsidies by 12.  Average subsidies for FY'09 and FY'10 were calculated using the annual cost of living adjustment of 3.5 percent.

We assume that the FY'09 subsidy levels will apply in the first year of the policy changes' effect.  It is unclear if a COLA will be applied to those subsidy levels in FY'10 due to low levels of inflation and the District's budget difficulties.  Even if the subsidy level is higher due to a COLA in the first year of the policy changes' effect, it will affect the costs and savings the same, as the subsidy levels apply to foster care subsidy savings discussed in Part II.b.ii.1.

- o $PS_{Year2} = \$12,249$
- o $PS_{Year3} = \$12,678$
- o $PS_{Year4} = \$13,121$
- o $PS_{year5} = \$13,580$
- **LS = Local share = .238 in FY'09 and FY'10, .30 thereafter[36]:** For children whose cases are eligible for federal funding, CFSA generally receives a 70 percent reimbursement, leaving a local share of 30%.[37] Under the American Recovery and Reinvestment Act of 2009 (ARRA), the District's reimbursement rate is increased to 76.2 percent until the end of the 2010 calendar year, leaving a local share of 23.8 percent.[38]
- **P = Penetration rate:** The rate of children who are eligible for federal financial reimbursement for a particular type of subsidy. Federal reimbursement is only provided for those children who are eligible. The penetration rate differs based on the age of children involved and the type of permanency (adoption or guardianship).

The below subsections calculate the cost of: 1) adoption subsidies for children and youth between 18 and 21; 2) kinship guardianship subsidies for children and youth between 18 and 21; 3) adoption and kinship guardianship subsidies for children under 18 whose adoptions and guardianships are induced by these policy changes; and 4) nonkinship guardianship subsidies.

    i. <u>Cost of adoption subsidies from age 18 to age 21 for all adoptions, both those induced by policy changes and those which would occur regardless of those changes.</u>

The proposed policy changes would impose on CFSA the cost of paying adoption subsidies for all *prospective*[39] adoptions until the adopted child turns 21. These include all adoptions – whether they will occur because of the policy changes or would occur regardless.

In any particular fiscal year, the District will bear this cost only for those adopted children who are between the ages of 18 and 21 in that fiscal year. To calculate that cost, we multiply the number of adopted children between those ages in any given year (taken from the projections in Part I.d) by the cost in local dollars of the subsidy in that year.

We treat the cost of adoption subsidies between ages 18 and 21 separate from subsidies for children under 18 because the availability of federal funding – and thus the cost in local dollars – for the older age group differs from the younger. Under current federal law, federal

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[36] The federal stimulus bill increased the District's Medicaid and IV-E match by six percent, increasing from 70 to 76 percent. It will return to its normal 70 percent in FY'11. CFSA, Cost and Revenue Projections for Subsidizing Adoptions and Guardianships Through Age 21, Line 104.

[37] 42 U.S.C. § 674(a).

[38] American Recovery and Reinvestment Act of 2009, § 5001(b), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf.

[39] The proposed changes would not affect adoptions or guardianships finalized prior to the law's passage.

reimbursement is available to otherwise IV-E eligible children when "the State determines that the child has a mental or physical handicap which warrants the continuation of assistance."[40] It is thus up to the District to define conditions which warrant continuing adoption subsidies until age 21. Numerous states have defined such conditions relatively broadly as part of efforts to extend subsidies to some or all youth between 18 and 20 years old.[41] We estimate that two-thirds of adopted children would qualify for IV-E reimbursement, based on a survey of attorneys representing children and caregivers in the District's foster care system. A memorandum explaining the federal funding law and the results of this survey are appended.[42] If that estimate is too optimistic, the financial consequences are not significant.[43]

Federal law will change beginning in fiscal year 2011 and federal funding for adoption subsidies for 18-21 year olds will become available for children adopted at age 16 or older and who remain in school of any form, are employed at least part time, or have some disability that prevents them from working. Based on the estimates in Part I, we do not anticipate that this provision will cover many additional adopted youth. As reported in Table 3, we project a range of 4 to 7 new adoptions and guardianships of youth 16 years old or older each year, and we do not expect this new federal provision to affect many of them who would not already have been covered by IV-E due to a "mental or physical handicap which warrants continuation of assistance."

The total cost of adoption subsidies for youth 18-21 years old in any given fiscal year is a function of the following data points: a) the number of adopted youth in that age range in a given fiscal year (listed in Part I.d); b) the average cost of adoption subsidies per child in a given fiscal year; c) the overall IV-E penetration rate (68 percent penetration rate[44] times 67 percent eligibility for IV-E subsidy extension reimbursement in FY'10; and 68 percent times seventy percent in FY'11 and beyond); and d) the IV-E reimbursement rate (76.2 percent in FY'10 and 70 percent in FY'11 and beyond. Specifically, the cost will be calculated using the following formulas:

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[40] 42 U.S.C. § 673(a)(4)(A) (emphasis added).

[41] For a state-by-state list of such laws and policies, *see* Mary Eschelbach Hansen & Josh Gupta-Kagan, *Raising the Cut-Off: The Empirical Case for Extending Adoption and Guardianship Subsidies From Age 18 to 21*, 13 U.C. DAVIS J. OF JUV. L. & POL'Y, 1, 13-14, 24 (2009).

[42] See Appendix B. The precise proportion of 18-21 year old youth living with adoptive parents and permanent guardians whose subsidies can receive federal financial participation depends on CFSA seeking those federal funds. As more federal funds will help CFSA's budget, we assume that CFSA actively work to maximize its federal revenue.

[43] Even if our estimate proves overly optimistic, the bottom line is not significantly affected. For instance, if instead of two thirds of adopted children 18-21 year olds' subsidies would qualify for federal reimbursement, only one third are eligible, the effect is modest. If only one third of such subsidies would qualify, the cost to the District will increase by $92,307 if the highest projection of new adoptions occurs, in year 5, in which subsidies will be the most expensive. The total added cost among both adoption and guardianship incentives would be $202,196. In that year, with the highest number of projected adoptions, projected net savings are $3,448,973. The increased subsidy costs would lower that projection to $3,246,777.

[44] Testimony of Dr. Roque Gerald, Acting Director of the Child and Family Services Agency, D.C. Council Committee on Human Services, A Review of the "Repairing the safety net for at-risk children and families reform plan" one-year after the Jacks' Tragedy, Feb. 11, 2009.

Cost in FY'09 and FY'10 = (1-(0.68)(0.67))(N)(PS) + (0.238)(0.68)(0.67)(N)(PS) = (0.5444)(N)(PS) + (0.1084328)(N)(PS)
Cost in FY'11 and beyond = (1-(0.68)(0.7))(N)(PS) + (0.3)(0.68)(0.7)(N)(PS) = (0.524)(N)(PS) + (0.1428)(N)(PS)

### Year 1

Expected: (0.5444)(3)($11835) + (0.1084328)(3)($11835) = $23,179
Low: (0.5444)(1)($11835) + (0.1084328)(1)($11835) = $7726
High: (0.5444)(3)($11835) + (0.1084328)(3)($11835) = $23,179

### Year 2

Expected: (0.5444)(6)($12,249) + (0.1084328)(6)($12249) = $47,979
Low: (0.5444)(4)($12,249) + (0.1084328)(4)($12249) = $31,986
High: (0.5444)(6)($12,249) + (0.1084328)(6)($12249) = $47,979

### Year 3

Expected: (0.524)(13)($ 12678) + (0.1428)(13)($ 12678) = $109,898
Low: (0.524)(10)($12678) + (0. 1428)(10)($12678) = $84,537
High: (0.524)(14)($12678) + (0. 1428)(14)($12678) = $118,352

### Year 4

Expected: (0.524)(24)($13121)+ (0.1428)(24)($ 13121) = $209,978
Low: (0.524)(19)($ 13121) + (0. 1428)(19)($ 13121) = $166,233
High: (0.524)(25)($ 13121) + (0. 1428)(25)($ 13121) = $218,727

### Year 5

Expected: (0.524)(39)($ 13580)+ (0.1428)(39)($ 13580) = $353,151
Low: (0.524)(32)($ 13580) + (0. 1428)(32)($ 13580) = $289,765
High: (0.524)(42)($ 13580) + (0. 1428)(42)($ 13580) = $380,316

ii. <u>Cost of kinship guardianship subsidies from age 18 to age 21, both those induced by policy changes and those which would occur regardless of those changes.</u>

The proposed policy changes would impose on CFSA the cost of paying adoption subsidies for all future guardianships until the child turns 21.[45]  These include all guardianships – whether they will occur because of the policy changes or would occur regardless of those changes.

In any particular fiscal year, the District will bear this cost only for those permanent guardians with children who are between the ages of 18 and 21 in that fiscal year.  To calculate that cost, we multiply the number of such children between those ages in any given year (taken from the projections in Part I.d) and multiplying it by the cost in local dollars of the subsidy in that year.

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[45] The proposed changes would not provide subsidies until age 21 for guardianships finalized prior to the law taking effect.

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No federal funding is available for kinship guardianships involving children between 18 and 21 years old in FY 2009 and FY 2010; the penetration rate in those years will therefore be zero. In FY 2011, federal law will begin providing funding for kinship guardianships involving that age group on the same conditions as adoption subsidies. We thus apply the same estimate of the penetration rate for kinship guardianship subsidies for youth between 18 and 21 years old as for adoption subsidies for children the same age. As noted above, even if this estimate is overly optimistic, the financial consequences are not significant.[46]

The cost is thus calculated using the following formulas:
- **Cost in FY'09 and FY'10 = (N)(PS)**
- **Cost in FY'11 and beyond = (N)(1-(0.68)(0.7))(PS) + (N)(0.7)(0.68)(0.3)(PS) = (N)(0.524)(PS) + (N)(0.1428)(PS)**

    **Year 1**

        Expected: 3 x $11835 = $35,505
        Low: 2 x $11835 = $23,670
        High: 3 x $11835 = $35,505

    **Year 2**

        Expected: 7 x $12249 = $85,743
        Low: 5 x $12249 = $61,245
        High: 7 x $12249 = $85,743

    **Year 3**

        Expected: 16(0.524)($12678) + 16(0.1428)($12678) = $135,259
        Low: 12(0.524)($12678) + 12(0.1428)($12678) = $101,444
        High: 16(0.524)($12678) + 16(0.1428)($12678) = $135,259

    **Year 4**

        Expected: 28(0.524)($13121) + 28(0.1428)($13121) = $244,974
        Low: 23(0.524)($13121) + 23(0.1428)($13121) = $201,229
        High: 30(0.524)($13121) + 30(0.1428)($13121) = $262,473

    **Year 5**

        Expected: 46(0.524)($13580) + 46(0.1428)($13580) = $416,537
        Low: 39(0.524)($13580) + 39(0.1428)($13580) = $353,151
        High: 50(0.524)($13580) + 50(0.1428)($13580) = $452,757

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[46] As with adoption subsidies for 18-21 year olds, the District has a strong incentive to seek all available federal reimbursements for guardianship subsidies for youth of this age. We similarly assume that CFSA will work actively to maximize its federal revenue for 18-21 year old adopted youth. *See* note 43 above.

As noted above, even if our estimate proves overly optimistic, the bottom line is not significantly affected. For instance, if instead of two thirds of adopted children 18-21 year olds' subsidies would qualify for federal reimbursement, only one third are eligible, the effect is modest. If only one third of such subsidies would qualify, the cost to the District will increase by $109,889 if the highest projection of new adoptions occurs, in year 5, in which subsidies will be the most expensive. The total added cost among both adoption and guardianship incentives would be $202,196. In that year, with the highest number of projected adoptions, projected net savings are $3,448,973. The increased subsidy costs would lower that projection to $3,246,777.

     iii.  <u>Cost of adoption and kinship guardianship subsidies until age 18 for adoptions and kinship guardianships induced by the policy changes.[47]</u>

The proposed changes are designed to induce more adoptions and guardianships. These adoptions and guardianships will impose on the District the cost of providing adoptive parents with adoption subsidies and permanent kinship guardians with guardianship subsidies. Both categories of subsidies are eligible for federal Title IV-E reimbursement for otherwise eligible children.

The number of adoptions and guardianships accounted for here is taken from the sum of new adoptions and new kinship guardianships listed in Table 9 (the sum of columns C and F). New non-kinship guardianships and diverted non-kinship guardianships are accounted for in the next section. To calculate these costs, we use the following formulas:

- **Cost** $_{FY'09\ \&\ '10}$ = **(1-0.68)(N)(PS) + (0.68)(0.238)(N)(PS) = (0.32)(N)(PS) + (0.16184)(N)(PS)**
- **Cost** $_{FY'10\ \&\ beyond}$ = **(1-0.68)(N)(PS) + (N)(0.68)(0.3)(PS) = (0.32)(N)(PS) + (0.204)(N)(PS)**

    **Year 1**

        Expected: 0.32(111)($11835) + 0.16184(111)($11835) = $630,135

        Low: 0.32(77)($11835) + 0.16184(77)($11835) = $439,098

        High: 0.32(142)($11835) + 0.16184(142)($11835) = $809,766

    **Year 2**

        Expected: 0.32(111)($12249) + 0.16184(111)($ 12249) = $652,177

        Low: 0.32(77)($12249) + 0.16184(77)($ 12249) = $454,459

        High: 0.32(142)($12249) + 0.16184(142)($ 12249) = $838,092

    **Year 3**

        Expected: 0.32(111)($12678) + 0.204(111)($12678) = $734,082

        Low: 0.32(77)($12678) + 0.204(77)($12678) = $511,532

        High: 0.32(142)($12678) + 0.204(142)($12678) = $943,345

    **Year 4**

        Expected: 0.32(111)($ 13121) + 0.204(111)($ 13121) = $759,732

        Low: 0.32(77)($ 13121) + 0.204(77($ 13121) = $529,406

        High: 0.32(142)($ 13121) + 0.204(142)($ 13121) = $976,307

    **Year 5**

        Expected: 0.32(111)($ 13580) + 0.204(111)($ 13580) = $786,309

        Low: 0.32(77)($ 13580) + 0.204(77)($ 13580) = $547,926

        High: 0.32(142)($ 13580) + 0.204(142)($ 13580) = $1,010,461

     iv.  <u>Cost of non-kinship guardianship subsidies (0-21) induced by these policy changes.</u>

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[47] Adoptions and guardianships that will occur regardless of the policy change will already impose the cost of a subsidy until age 18, so the policy change will not increase those costs at all.

As indicated in Part I.c above, detailed studies of Illinois's experience with non-kinship adoptions leads to our projection that offering non-kinship guardianship subsidies will incentive 23-29 guardianships regarding children who would otherwise not have an adoption or a guardianship, and will induce 22-27 children who would have been adopted shift to guardianship. As federal revenues are not yet available for non-kinship guardianship, the District will have to pay the full cost of guardianship subsidies for new guardianships and the cost of the federal match for adoption subsidies lost when non-kin elect non-reimbursable guardianship subsidies over reimbursable adoption subsidies. The local share of the cost of subsidies for the latter group of non-kinship guardianships cannot be attributed to this policy change because the District would pay that cost as a portion of adoption subsidies absent this change.

**Cost of new guardianships:** N x PS
- **Year 1**
  - Expected: 26 x $11835 = $307,710
  - Low: 23 x $11835 = $272,205
  - High: 29 x $11835 = $343,215
- **Year 2**
  - Expected: 26 x $12249 = $318,474
  - Low: 23 x $12249 = $281,727
  - High: 29 x $12249 = $355,221
- **Year 3**
  - Expected: 26 x $12678 = $329,628
  - Low: 23 x $12678 = $291,594
  - High: 29 x $12678 = $367,662
- **Year 4**
  - Expected: 26 x $13121 = $341,146
  - Low: 23 x $13121 = $301,783
  - High: 29 x $13121 = $380,509
- **Year 5**
  - Expected: 26 x $13580 = $353,080
  - Low: 23 x $13580 = $312,340
  - High: 29 x $13580 = $393,820

**Cost of diverted guardianships:** N x (1-LS) x P x PS
- **Year 1**
  - Expected: 25 x (1-.238) x .68 x $11835 = $153,311
  - Low: 22 x (1-.238) x .68 x $11835 = $134,913
  - High: 28 x (1-.238) x .68 x $11835 = $171,708
- **Year 2**
  - Expected: 25 x (1-.238) x .68 x $12249 = $158,674
  - Low: 22 x (1-.238) x .68 x $12249 = $139,633
  - High: 28 x (1-.238) x .68 x $12249 = $177,714
- **Year 3**
  - Expected: 25 x (1-.3) x .68 x $12678 = $150,868
  - Low: 22 x (1-.3) x .68 x $12678 = $132,764

- High: 28 x (1-.3) x .68 x $12678 = $168,972

**Year 4**
- Expected: 25 x (1-.3) x .68 x $13121 = $156,140
- Low: 22 x (1-.3) x .68 x $13121 = $137,403
- High: 28 x (1-.3) x .68 x $13121 = $174,877

**Year 5**
- Expected: 25 x (1-.3) x .68 x $13,580 = $161,602
- Low: 22 x (1-.3) x .68 x $13,580 = $142,210
- High: 28 x (1-.3) x .68 x $13,580 = $180,994

v. CFSA staffing and "post-permanency" support costs

CFSA funds a "Post-Permanency Center" which provides support services to families of former foster children. Moving more children to adoption and guardianship will impose some additional costs for the Post-Permanency Center onto CFSA. CFSA estimates an additional cost of $300 for each child and youth living with an adoptive parent or permanent guardian. The cost is thus: $300 x N.

**Expected:** 141 x $300 = $42,300
**Low:** 103 x $300 = $30,900
**High:** 177 x $300 = $53,100

vi. CFSA FACES costs

CFSA bills the federal government through its FACES data system. CFSA has not historically billed the federal government for adoption or guardianship subsidies beyond age 18 and so needs to reprogram FACES to enable this billing. This requires a one-time reprogramming cost at the first year of the policy changes' effect. CFSA has estimated that reprogramming cost as $500,000. Some of these costs may be IV-E reimbursable, but CFSA was not able to predict with certainty whether how many IV-E dollars may be accessible, so we assume the full $500,000 cost will be paid with local dollars. CCFSA projects no additional costs in future years.

vii. Non-recurring adoption and guardianship costs

CFSA supports some adoptive parents and permanent guardians with "nonrecurring expenses" associated with adoptions and guardianships.[48] Most frequently, these funds go towards the adoptive parents' or permanent guardians' legal costs. Because many such individuals have pro bono attorneys, not every adoption or guardianship involves these recurring costs. In addition, the federal government reimburses one-half of these costs up to

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[48] 42 U.S.C. §§ 673(a) (adoption) & 673(d)(1)(B)(4) (guardianship).

$2,000.[49]  Accounting for all of these factors, CFSA estimated that it spends an average of $1800 in local funds for each adoption.[50]  N is the number of incentivized adoptions.

Cost: N x $1800

Expected: 53 x $1800 = $95,400

Low: 37 x $1800 = $66,600

High: 68 x $1800 = $122,400

viii.   Total costs

The total costs, the sum of costs described above, are listed below.  The costs grow each year for several reasons.  First and most importantly, the number of subsidies for 18-21 year olds increases each year as teenagers adopted in previous years grow into that age range in future years.  Second, federal stimulus funding (which increased federal revenue for subsidies) expires at the end of 2010, increasing the cost in subsequent years.  Third, the subsidy amounts have a cost of living adjustment for every year.

These total cost estimates are conservative because they assume that every youth who leaves foster care to adoption or guardianship will be eligible for a subsidy until they turn 21.  Some amount of attrition, however, is inevitable.  If a 19 year old joins the military, for instance, or otherwise moves out of his home and ceases to be financially dependent on his adoptive parent or permanent guardian, that 19 year old loses eligibility for a subsidy.[51]  We cannot, however, quantify how frequently these situations will occur, so we do not project reduced adoption and guardianship subsidy costs by attrition.  As a result, the total cost estimates are higher than what will actually occur.

**Year 1**

Expected: $1,787,539

Low: $1,475,113

High: $2,058,873

**Year 2**

Expected: $1,400,747

Low: $1,066,549

High: $1,658,050

**Year 3**

Expected: $1,597,435

Low: $1,219,371

High: $1,886,890

**Year 4**

Expected: $1,849,670

Low: $1,433,554

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[49] Title IV-E treats these nonrecurring costs as administrative costs, which the federal government reimburses at a rate of 50 percent.  42 U.S.C. § 673(a)(6)(B) (citing 42 U.S.C. § 674(a)(3)(e)).

[50] CFSA's memo describing non-recurring costs referred only to adoptions, and not guardianships.

[51] 42 U.S.C. § 673(a)(4)(B); Pub. L. 110-351, § 201(c), *to be codified at* 42 U.S.C. § 673(a)(4)(A)(ii)-(iii) (effective October 1, 2010).

High: $2,166,193
**Year 5**
Expected: $2,208,378
Low: $1,742,891
High: $2,571,648

*b. Savings of the policy changes*

Every adoption and guardianship induced by this policy change will enable the District to close a foster care case. The child will no longer have a CFSA social worker, no longer live in a foster home or other placement paid for by CFSA, no longer be entitled to CFSA services, and no longer require an open neglect case in DC Family Court. For those adoptive parents and permanent guardians who live outside of the District, inducing adoptions and guardianships will result in the child's legal residency changing to the state of their adoptive parent or guardian's home. That residency change will shift the obligation to provide those children with education, medical care, and mental health care from the District to the state in which the child then lives in a permanent family. All of these changes will lead to direct savings for the District government. This section will examine each category of savings in turn.

Common variables – similar to those discussed in Part II.a – include:

- **FCS (Foster Care Subsidy):** Median annual cost of a subsidy to a foster parent: $11,835.[52] These figures are identical to the annual average cost of an adoption or guardianship subsidy.
  - $FCS_{year1} = \$11,835$
  - $FCS_{year2} = \$12,249$
  - $FCS_{year3} = \$12,678$
  - $FCS_{year4} = \$13,121$
  - $FCS_{year5} = \$13,580$
- **LS = Local share = share = .238 in FY'09 and FY'10, .30 thereafter**, for the same reasons explained in Part II.a.
- **P = Penetration rate:**
  - FFP eligibility for foster children remains linked to the AFDC status of the family from which CFSA removed the child
  - FFP is constant for children under 18 but varies for youth 18-21.
  - P is presented in decimal form. If the penetration rate is 68%, P = 0.68. The number of IV-E ineligible children (1-P) would be 0.32.
- **N = Number of closed cases closed each year** (total number of new adoptions, kinship guardianships and non-kinship guardianships induced by legislation).

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[52] These figures are identical to the average adoption and guardianship costs estimated above and are based on the same CFSA source. They assume the same cost of living increase.

o As with the costs, the N value for savings categories will increase over time. For a child who would have stayed in care until age 21 for whom our bill induces permanency, savings will occur each year until age 21, just as permanency subsidy costs will occur each year until age 21.

o N should be identical to the sum of the Ns above for permanency induced by this bill

### i. CFSA staff costs

When a child moves from foster care to adoption or guardianship, CFSA staff costs are reduced significantly. Each foster child has a social worker, social services associate, and a social work supervisor assigned to his/her case. CFSA has estimated the cost of these staff as $7250 per child.[53] We believe this figure includes salaries only and thus underestimates the full savings. This estimate excludes the cost of higher ranking CFSA staff (such as program managers) and staff in other divisions of CFSA (such as the Office of Clinical Practice or Quality Assurance) and therefore may underestimate the full extent of cost savings. Although the reduction in the number of foster care cases induced by this policy change would surely affect other CFSA staff, it is not possible to predict the size of that effect with any precision.

Multiplying the expected number of children who will be moved to adoption or guardianship by $7250 in staff savings per child leads to a projected savings in staff cost calculated here:

Expected: 135 x $7250 = $ 978,750
Low range: 100 x $7250 = $725,000
High range: 171 x $7250 = $ 1,239,750

### ii. CFSA placement costs

### 1. Foster home costs

The largest number of adoptions and guardianships induced by these policy changes will involve children and youth who would otherwise reside in a foster home. Achieving permanency for these children and youth therefore saves the District the cost of subsidizing that foster home.

The core variables include the number of adoptions and guardianships induced by the proposed policy changes that involve children and youth who would have remained in a foster home but for the adoption and guardianship. Those figures are taken from Table 14 in Part I.d. They also include the penetration rate, which is 68%,[54] the percentage local share of

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[53] Source: CFSA. This figure includes $6144 in salaries per child plus 18 percent cost for benefits.
[54] Testimony of Dr. Roque Gerald, Acting Director of the Child and Family Services Agency, D.C. Council Committee on Human Services, A Review of the "Repairing the safety net for at-risk children and familes reform plan" one-year after the Jacks' Tragedy, Feb. 11, 2009.

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the foster care subsidy, and the foster care subsidy itself. The formulas and calculations are below.

The foster care subsidy used in this calculation is conservative and likely underestimates the true savings associated with adoption and guardianship. Many children will leave "therapeutic foster homes" for adoption or guardianship. Those foster homes receive an elevated foster care subsidy – higher than the average FCS figures listed above – and those elevated foster care subsidies are typically reduced when a family negotiates an adoption or guardianship subsidy with CFSA. The cost savings associated with this differential are not included in the savings projections, which therefore likely underestimate the savings associated with these policy changes.

- o **Savings** FY'09 & FY'10 $= (N)(0.32)(FCS) + (N)(0.68)(0.238)(FCS)$
  - **Year 1**
    - o Expected: Savings $= 118(0.32)(\$11835) + 118(0.68)(0.238)(\$11835) =$ $672,904
    - o Low: Savings $= 87(0.32)(\$11835) + 87(0.68)(0.238)(\$11835) =$ $496,124
    - o High: Savings $= 147(0.32)(\$11835) + 147(0.68)(0.238)(\$11835) =$ $838,279
  - **Year 2**
    - o Expected: Savings $= 118(0.32)(\$ 12249) + 118(0.68)(0.238)(\$12249) =$ $696,443
    - o Low: Savings $= 87(0.32)(\$ 12249) + 87(0.68)(0.238)(\$12249) =$ $513,479
    - o High: Savings $= 147(0.32)(\$ 12249) + 147(0.68)(0.238)(\$ 12249) =$ $867,603
- o **Savings** FY'11 & Beyond $= (N)(0.32)(FCS) + (N)(0.68)(0.3)(FCS)$
  - **Year 3**
    - o Expected: Savings $= 118(0.32)(\$ 12678) + 118(0.68)(0.3)(\$12678) =$ $783,906
    - o Low: Savings $= 87(0.32)(\$ 12678) + 87(0.68)(0.3)(\$12678) =$ $577,965
    - o High: Savings $= 147(0.32)(\$ 12678) + 147(0.68)(0.3)(\$12678)$ $976,561
  - **Year 4**
    - o Expected: Savings $= 118(0.32)(\$ 13121) + 118(0.68)(0.3)(\$ 13121) =$ $811,298
    - o Low: Savings $= 87(0.32)(\$ 13121) + 87(0.68)(0.3)(\$13121) =$ $598,160
    - o High: Savings $= 147(0.32)(\$ 13121) + 147(0.68)(0.3)(\$ 13121) =$ $1,010,684
  - **Year 5**
    - o Expected: Savings $= 118(0.32)(\$ 13580) + 118(0.68)(0.3)(\$ 13580) =$ $839,679

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- o Low: Savings = 87(0.32)($13580) + 87(0.68)(0.3)($13580) = $619,085
- o High: Savings = 147(0.32)($ 13580) + 147(0.68)(0.3)($ 13580) = $1,046,040

## 2. Congregate care costs

The savings associated with adoptions and guardianships of children who would otherwise live in congregate care settings are especially significant because group homes are significantly more expensive than foster homes. The District's fiscal year 2010 budget included $19,530,000 for congregate care programs,[55] which serve 14 percent of the foster care population, or about 325 children and youth.[56] The average cost of placing one child in congregate care for one year is therefore $60,092.31 – about five times as much as one year of a foster care subsidy. That figure is within the range of costs reported by the D.C. Auditor, who noted in fiscal year 2008 that congregate care facilities ranged in cost from $139 per day per child to $294 per day per child, or $50,735 to $107,310 annually.[57]

CFSA may seek Title IV-E reimbursement for congregate care costs, just as it does for foster care subsidy costs. The projected number of affected children is taken from Table 8.

- **Savings** FY'09 & FY'10 = **(N)(0.32)($60,092) + (N)(0.68)(0.238)($60,092)**
- **Savings** FY'11 & Beyond = **(N)(0.32)($60,092) + (N)(0.68)(0.3)($60,092)**
- N is taken from the Table 14 in Part I.d.
    - o **Years 1 & 2**
        - o Expected: Savings = 9 x 0.32 x $60,092 + 9 x 0.68 x. 0.238 x $60,092 = $259,724
        - o Low: Savings = 6 x 0.32 x $60,092 + 6 x 0.68 x. 0.238 x $60,092 = $180,678
        - o High: Savings = 12 x 0.32 x $60,092 + 12 x 0.68 x. 0.238 x $60,092 = $334,253
    - o **Years 3-5**
        - o Expected: Savings = 9 x 0.32 x $60,092 + 9 x 0.68 x. 0.3 x $60,092 = $282,449
        - o Low: Savings = 6 x 0.32 x $60,092 + 6 x 0.68 x. 0.3 x $60,092 = $196,486
        - o High: Savings = 12 x 0.32 x $60,092 + 12 x 0.68 x. 0.3 x $60,092 = $363,500

## 3. Therapeutic foster care savings

Savings associated with the adoptions and guardianships of children who would otherwise live in therapeutic foster homes are relatively high because the costs of therapeutic foster care are higher. CFSA reports an average per diem cost of children in therapeutic foster

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[55] Source: Child and Family Services Agency, telephone call to Children's Law Center.
[56] Source: Child and Family Services Agency, Public Budget Briefing, July 22, 2009.
[57] Office of the District of Columbia Auditor, Audit of Child and Family Services Agency's Congregate Care Expenditures, at 3, (2008), http://www.dcauditor.org/DCA/Reports/DCA092008.pdf.

care of $189, for a yearly cost of $68,985 ($189 per day x 365 days), and that this cost includes both foster care subsidies and therapeutic foster care agency staff and administrative costs.[58] Finally, CFSA reports that in past years, 10 percent of adopted and guardianshipped children had been in therapeutic foster care prior to the adoption or guardianships.[59]

It would be ideal to separate out staff and foster care subsidy costs, as each are associated with somewhat different federal reimbursement rules. However, we can use the existing data to project the additional cost savings by focusing on the differential between the cost of therapeutic foster care -- $68,985 per year – and foster care subsidies and CFSA staff for children not in therapeutic foster care. To do so we subtract the foster care subsidy in a given year and the per child CFSA staff costs from $68,985. The resulting number is the extra cost of therapeutic foster care. We can then multiple that cost by the number of affected children (10 percent of the total number of children adopted or guardianshipped from therapeutic foster care). We can then account for federal reimbursement of some of those costs assuming, conservatively, the same IV-E penetration and reimbursement rate for these costs as with foster care subsidies.[60]

The resulting formulas are included in the attached spreadsheets with the resulting savings listed below:

**Savings** $_{FY'09 \& FY'10}$ = ($69,985 - $7250 – FCS)(N)(0.32) + ($69,985 - $7250 – FCS)(N)(0.238)(0.68)

**Savings** $_{FY'11 \& beyond}$ = ($69,985 - $7250 – FCS)(N)(0.32) + ($69,985 - $7250 – FCS)(N)(0.3)(0.68)

**Year 1**

Expected: = ($69985 - $7250 - $11835) (12) (0.32) + ($69985 - $7250 – $11835) (12) (0.238) (0.68) = $294,308

Low: ($69985 - $7250 - $11835) (9) (0.32) + ($69985 - $7250 – $11835) (9) (0.238) (0.68) = $220,731

High: ($69985 - $7250 - $11835) (15) (0.32) + ($69985 - $7250 – $11835) (15) (0.238) (0.68) = $367,885

**Year 2**

Expected: ($69985 - $7250 - $12249) (12) (0.32) + ($69985 - $7250 – $12249) (12) (0.238) (0.68) = $291,914

Low: ($69985 - $7250 - $12249) (9) (0.32) + ($69985 - $7250 – $12249) (9) (0.238) (0.68) = $218,936

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[58] These staff and administrative costs are incorporated into per diem contract rates and thus, unlike CFSA staff costs, are associated with savings that can take effect immediately.

[59] CFSA reported that 10 to 12.7 percent of adoptions (an average of 11.35 percent) and 9 percent of guardianships involved children in therapeutic foster care. The 10 percent estimate consolidates the adoption and guardianship numbers and slightly underestimates the overall percentage.

[60] This estimate is conservative because staff costs are reimbursed by different formulas and some staff costs are reimbursed as Title IV-E administrative costs – a 50% reimbursement rate versus a 70% foster care subsidy reimbursement rate.

High: ($69985 - $7250 - $12249) (15) (0.32) + ($69985 - $7250 – $12249) (15) (0.238) (0.68) = $364,893

**Year 3**

Expected: ($69985 - $7250 - $12678) (12) (0.32) + ($69985 - $7250 – $12678) (12) (0.3) (0.68) = $314,758

Low: ($69985 - $7250 - $12678) (9) (0.32) + ($69985 - $7250 – $12678) (9) (0.3) (0.68) = $236,069

High: ($69985 - $7250 - $12678) (15) (0.32) + ($69985 - $7250 – $12678) (15) (0.3) (0.68) = $393,448

**Year 4**

Expected: ($69985 - $7250 - $13121) (12) (0.32) + ($69985 - $7250 – $13121) (12) (0.3) (0.68) = $311,973

Low: ($69985 - $7250 - $13121) (9) (0.32) + ($69985 - $7250 – $13121) (9) (0.3) (0.68) = $233,980

High: ($69985 - $7250 - $13121) (15) (0.32) + ($69985 - $7250 – $13121) (15) (0.3) (0.68) = $389,966

**Year 5**

Expected: ($69985 - $7250 - $13580) (12) (0.32) + ($69985 - $7250 – $13580) (12) (0.3) (0.68) = $309,087

Low: ($69985 - $7250 - $13580) (9) (0.32) + ($69985 - $7250 – $13580) (9) (0.3) (0.68) = $231,815

High: ($69985 - $7250 - $13580) (15) (0.32) + ($69985 - $7250 – $13580) (15) (0.3) (0.68) = $386,358

### 4. Costs of other placements

Professor Hansen projected that the proposed policy changes would induce adoptions and guardianships of children otherwise living in some other institutional setting. Those projections are listed in Table 14 in Part I.d. These institutional settings – residential treatment facilities – cost an average of $128,000 per year and are eligible for federal reimbursement.[61]

The cost savings formulas are:

- **Savings** FY'09 & FY'10 = **(N)(0.32)($128,000) + (N)(0.68)(0.238)($128,000)**
- **Savings** FY'11 & Beyond = **(N)(0.32)($128,000) + (N)(0.68)(0.3)($128,000)**
  - **Years 1 & 2**
    - Expected: Savings = 13 x 0.32 x $128,000 + 13 x 0.68 x. 0.238 x $128,000 = $801,782
    - Low: Savings = 9 x 0.32 x $128,000 + 9 x 0.68 x. 0.238 x $128,000 = $555,080
    - High: Savings = 17 x 0.32 x $128,000 + 17 x 0.68 x. 0.238 x $128,000 = $1,048,484
  - **Years 3-5**

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[61] Source: Chief Financial Officer, Office of Revenue Analysis.

- o Expected: Savings = 13 x 0.32 x $128,000 + 13 x 0.68 x. 0.3 x $128,000 = $871,936
- o Low: Savings = 9 x 0.32 x $128,000 + 9 x 0.68 x. 0.3 x $128,000 = $603,648
- o High: Savings = 17 x 0.32 x $128,000 + 17 x 0.68 x. 0.3 x $128,000 = $1,140,224

### iii. CFSA contracted service costs

CFSA pays directly for some services provided to foster children. CFSA has reported the average cost of contracted services for each child in foster care at $6,800.

- **Savings = N($6800)**
  - o Expected: Savings = 141 x $6800 = $961,452
  - o Low: Savings = 103 x $6800 = $701,794
  - o High: Savings = 177 x $6800 = $1,206,272

### iv. Legal costs of keeping a foster care case open

Moving a child from foster care to adoption or guardianship will also save the District legal costs. An open foster care case requires Family Court hearings at least every six months.[62] In these cases, the District is represented by an Assistant Attorney General, the child is represented by his/her attorney (or guardian *ad litem*), and each parent is represented by an attorney. Each open foster care case costs the Office of the Attorney General an average of $1704.[63]

We exclude from our estimate the significant costs to the District of Columbia Superior Court. The Court is funded through the federal government and its budget thus does not affect local District funds. Nonetheless, it is worth noting that attorneys for the child and two parents[64] cost the court system an average of $5799 per case each year.[65] That figure does not include the cost for judges and court clerks and other staff.

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[62] D.C. Code § 16-2323(a).

[63] The District government budgeted $4,260,000 for the Office of the Attorney General's abuse and neglect litigation line item. Government of the District of Columbia, FY 2010 Amended Budget and Financial Plan, Agency Budget Chapters Part I, at A-188, http://cfo.dc.gov/cfo/frames.asp?doc=/cfo/lib/cfo/budget/2010/revised_071709/dc_gov_vol_2_fy_2010_budget_-_agency_budget_chapters_part_i.pdf. Divided by an estimated caseload of 2500, one case costs an average of $1704.

[64] D.C. Code § 16-2304.

[65] The Superior Court budgeted $14,500,000 in FY'09 for attorneys in abuse and neglect cases. http://www.dccourts.gov/dccourts/docs/fy2009/DefenderServicesBudget-FY2009-Justification.pdf at 2. With about 2500 open neglect cases and three attorneys per case, the Court spends about $1933 per attorney per year. *See* Superior Court of the District of Columbia, Family Court Annual Report 2008, at 60, http://www.dccourts.gov/dccourts/docs/family/family_annualreport2008.pdf (noting number of then pending neglect cases).

- **Savings = N($1704)**
    - Expected: Savings = 141 x $1704 = $240,929
    - Low: Savings = 103 x $1704 = $175,861
    - High: Savings = 177 x $1704 = $302,278

  v. <u>Cost of educating foster children who live outside of the District</u>

The cost of educating foster children who attend schools outside of the District is significant. When a District foster child lives with adoptive parents or permanent guardians outside of the DC, the child ceases to be a resident of the District and the DC government ceases to bear responsibility for the cost of educating the child.

The precise cost of educating foster children depends on what school the child attends and whether the child receives special education services. Foster children living in Maryland and attending Maryland schools fall into three categories: 1) children attending Maryland public schools and receiving general education services at a cost of $10,423,[66] 2) children attending Maryland public schools and receiving some special education services at a cost that ranges from $11,866 to $40,426[67] (as we have no data regarding which costs are most frequent, we apply the midpoint of these two figures, $26,146 as the average cost for this category) and 3) children attending a private special education school at with an average tuition cost of $58,968[68] and an average transportation cost of $21,000.[69] The number of children in each category is taken from Table 16.

- **Savings** non-DC gen ed **= N($10,423)**
    - Expected: Savings = 76 x $10,423 = $792,148
    - Low: Savings = 56 x $10,423 = $583,688
    - High: Savings = 96 x $10,423 = $1,000,608
- **Savings** non-DC pub sp ed **= N($26,146)**
    - Expected: Savings = 19 x $26,146 = $496,774

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[66] Maryland non-resident tuition rates spreadsheet, provided by CFSA.

[67] *Id.*

[68] The District budgeted $141,700,442 for non-public school special education tuition for fiscal year 2009. Government of the District of Columbia, FY 2010 Proposed Budget and Financial Plan, Agency Budget Chapters Part II, at D-95, http://grc.dc.gov/grc/lib/grc/budget/volume_3_agency_budget_chapters_part_2_.pdf. District data shows 2403 students enrolled in non-public special education schools in the 2008-2009 school year. District of Columbia Public Schools and Public Charter Schools, Enrollment Census Report, October 6, 2008, Attachment 15, http://osse.dc.gov/seo/cwp/view,a,1222,q,563398.asp. The average tuition cost, therefore, is $58,968.

[69] Testimony of David Gilmore, District of Columbia Committee of the Whole, March 12, 2009. Gilmore, the federal court-appointed receiver of DC special education transportation services, testified that the average cost of transporting a special education student was about $21,000. He further testified that of the 283 wards of DC who live in foster homes outside of DC (mostly in Maryland) and these students are far more likely to be the only student on a bus route or one of only two students on a bus route, leading to a significantly higher per-child transportation cost, a point he confirmed in writing to the Chairman of the District of Columbia Council Committee on Human Services. Letter from David Gilmore to Council Member Tommy Wells, March 26, 2009.

- o Low: Savings = 14 x $26,146 = $366,044
- o High: Savings = 24 x $26,146 = $627,504
- **Savings** non-DC nps sp ed **= N($58,968 + $21,000) = N($79,968)**
  - o Expected: Savings = 5 x $79,968 = $399,840
  - o Low: Savings = 4 x $79,968 = $319,872
  - o High: Savings = 7 x $79,968 = $559,776

     vi. Cost of health and mental health care of foster children who live outside of the District

As with education costs, adoptions with families outside of the District leads to cost savings regarding health and mental health care for District foster children. Affected children move from District Medicaid to health and mental health care plans in other states.[70]

The District government has estimated the average cost in local dollars for Medicaid as $1200 per child per year. The District has estimated additional mental health care costs of $4,000 per child per year. The total cost is thus $5200 per child per year.

Affected children will include those adopted outside of the District, but not those placed with permanent guardians outside of the District. To determine the number of affected children, we take the figures included in Table 9 for new adoptions and multiplied by 71 percent (Professor Hansen's estimate of the proportion of new adoptions that will occur outside of the District).

- o **Savings** non-DC mental health **= N($775)**
  - o Expected: Savings = 37 x $5200 = $192,400
  - o Low: Savings = 26 x $5200 = $135,200
  - o High: Savings = 48 x $5200 = $249,600

     vii. Total savings

We can project the total savings for each fiscal year by adding up the above categories; those figures are below. The average savings for each child moved from foster care to adoption or guardianship – the below sums divided by the number of incentivized adoptions and guardianships – is roughly $43,000.[71]

**Year 1**
    Expected: $6,137,338
    Low: $4,483,308

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[70] The District government provides D.C. Medicaid coverage to children living with permanent guardians, even those living outside of the District.
[71] This figure comes from the total savings listed on the attached spreadsheet for year 1 with the expected level of new adoptions and guardianships, divided by the number of such adoptions and guardianships.

High: $7,821,038
**Year 2**
> Expected: $6,158,483
> Low: $4,498,867
> High: $7,847,370

**Year 3**
> Expected: $6,361,670
> Low: $4,644,863
> High: $8,105,870

**Year 4**
> Expected: $6,386,276
> Low: $4,662,970
> High: $8,136,512

**Year 5**
> Expected: $6,463,518
> Low: $4,681,730
> High: $8,168,260

c. *Total cost benefit*

i. Savings minus costs

By moving significant numbers of children from foster care to permanency, the proposed policy changes would save the District government millions of dollars. The overall cost savings are calculated below by subtracting the total costs listed in Part II.a.v from the total savings listed in Part II.b.vii.

The overall savings estimates are extremely conservative because they do not account the compounding of cost savings over the years. When a fourteen year old who would have remained in foster care until he turned 21 years old leaves foster care to a permanent guardianship, that guardianship saves seven years worth of foster care costs. Yet the numbers in this study only account for one year's worth of savings for each adoption and guardianship that is induced. This approach is parallel to that taken in Part II.a, in which most of the costs associated with this policy change are also accounted for only on a one-year basis.[72] But because the cost savings are so much greater than the costs themselves, had we accounted for the compounding effect over time, the savings would be much greater.

In addition, the savings estimates only project savings for foster care subsidies to increase from one year to the next, because those increases legally must occur. However,

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[72] The cost figures in Part I.a project the cost of adoptions and guardianships over time in one important respect: the cost of subsidies for 18-21 year olds in the year that individuals are 18-21, which is often several years after the child in question will have left foster care to adoption or guardianship. We include those data based on Professor Hansen's estimates of the age range of children adopted. We do not have comparable estimates necessary to project the end date of all costs and savings.

other savings are nearly certain to increase with inflation over the next four fiscal years, leading to actual savings that are somewhat higher than those estimated here. In contrast, all of the costs discussed in Part II.a involve subsidies, and include adjustments for inflation.

The total cost savings gradually decline from the first year of implementation to the fifth. That change primarily results from the gradually increasing cost of adoption and guardianship subsidies for 18-21 year olds as children who leave foster care to adoption or guardianship in earlier years become 18-21 year olds whose subsidies receive less federal support in later years. As the numbers of eligible 18-21 year olds level off over time, so will the overall savings.

**Year 1**
  Expected: $4,349,799
  Low: $3,008,195
  High: $5,762,166
**Year 2**
  Expected: $4,757,735
  Low: $3,432,318
  High: $6,189,320
**Year 3**
  Expected: $4,764,235
  Low: $3,425,492
  High: $6,218,980
**Year 4**
  Expected: $4,536,605
  Low: $3,229,416
  High: $5,970,319
**Year 5**
  Expected: $4,255,140
  Low: $2,938,839
  High: $5,596,612

ii. <u>More than enough new adoptions and guardianships to cover costs.</u>

One can think about the cost-benefit analysis a different way. Future adoptions and guardianships will fall into two categories: 1) adoptions and guardianships that would happen regardless of the proposed policy changes and 2) adoptions and guardianships induced by the policy changes. Because they will happen regardless, Category 1 adoptions and guardianships will not generate savings and will impose new costs. Those new costs come in two forms: subsidies from age 18-21, and the lost federal revenue associated with diverting some adoptions to non-kinship guardianships. In the most expensive year (year 5), these costs add up to

$624,696.[73] Category 2 adoptions and guardianships yield about $43,000 in savings each, minus the cost of the relevant adoption and guardianship subsidies and related CFSA administrative costs and "post-permanency" supports, about $15,000, yielding a net savings of about $28,000 per adoption or guardianship.[74]

Therefore, to be cost neutral there only need to be 23 new adoptions and guardianships every year.[75] This study's *lowest* projection of the number of new adoptions and guardianships each year is 103 – more than four times the number needed to break even.

### iii. Steps to ensure these estimates are conservative

We reiterate here all of the various ways in which the above estimates are conservative:

- This analysis assumes that 175 adoptions and guardianships will happen each year regardless of the policy changes, despite recent evidence suggesting the numbers may be far lower. By assuming a higher baseline number of adoptions and guardianships, this analysis increased the projected costs of the policy change.
  - The analysis also assumes that the number projected for the first year (175) will hold steady in future years, even though that number has declined steadily in recent years.
- This analysis does not account for adoption and guardianship attrition -- 18-21 year olds who cease to be financially supported by their parents or guardians and thus cease to be eligible for subsidy. Not accounting for this phenomenon increased the projected cost.
- This analysis assumes *all* children who have non-kinship guardianships will leave foster care from a foster home rather than more expensive congregate care. This assumption reduced the projected savings.
- This analysis does not account for inflation on all the various savings factors (other than foster care subsidies).
- This analysis does not account for savings that will compound in future years; it only accounts for savings generated in the year in which a child moves from foster care to adoption or guardianship, not all of the years until the child turns 21.

All of these conservative features of this fiscal impact study suggest that the actual savings will be greater than our estimate.

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[73] This cost comes from the following calculation: Applying the 18-21 subsidy cost formula from Part II.a to the figure of 49 youth in Category 1 who will be between 18 and 21 in the fifth year of implementing these policy changes from Part I.d.1 ($443,702) and adding that figure to the highest possible cost of diverted guardianships in the fifth year from Part II.a.iv ($180,994). Again, this is a conservative cost estimate because it assumes a higher number of adoptions and guardianships in future years than CFSA has achieved in the most recent past.

[74] The actual average savings per adoption or guardianship will actually be greater once federal support for some adoption and guardianship subsidies is accounted for.

[75] Twenty-two new adoptions and guardianships would save $638,000.

## III.    Immediate costs and savings

Any policy takes time to fully implement, and savings, especially, can take time to fully realize.  This real-world principle is not fully reflected in the economic and statistical analyses of Part II, which do not distinguish between effects that will occur immediately and those that will only apply over time.  This section will address the likely impact of these policy changes in their first two years of implementation.

### a.    *Immediate costs*

Part II discusses four types of costs created by the proposed policy changes, each of which will take effect over different time spans.

First are the costs of adoption and guardianship subsidies from age 18 to 21 for foster children who would have adoptions and guardianships regardless of the policy changes, discussed in Parts II.a.i and II.a.ii.  There will be very few such costs in the first two years of this policy, because the vast majority of children who will have adoptions or guardianships absent any policy change will be several years younger than age 18 at the time of adoption and guardianship.  This principle is reflected in Table 10 from Part I.d, which projects that only 3 affected youth will be 18-21 the first year of implementation and only 13 in the second year.[76]  And it reflects simple logic:  when a foster parent can receive a subsidy until a foster child turns 21, but when adoption or guardianship would cut off that subsidy, very few, if any, foster families will pursue adoption or guardianship of a youth 18 or older.

These reduced costs are reflected in the figures used to calculate costs in Parts II.a.i and II.a.ii.  Those sections – which include the costs of adoptions and guardianship subsidies for 18-21 year olds that both would have occurred regardless of the policy changes and because of the policy changes – project the costs increasing from the tens of thousands of dollars in the first year to about $1.3 million by the fifth year, as more and more children in adoptions and guardianships reach the relevant age range.

Second are the costs of adoption and guardianship subsidies from age 18 to 21 for foster children who will have adoptions and guardianships because of the proposed policy changes.  These projected adoptions and guardianships are reflected in Table 4, which projects 2 such adoptions and guardianships in the first year and 10 in the second year.  All of these adoptions and guardianships will also induce new savings because, but for the policy changes, the affected children would remain in foster care.

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[76] This point is also reflected in data CFSA provided to the D.C. Council Committee on Human Services in the spring of 2009.  That data reflected that 735 foster children had permanency goals of adoption or guardianship, but only 23 of those children – or 3% -- were 17 or older.  CFSA March 2009 submission to the Committee on Human Services, Children in Foster Care by Permanency Goal and Age.  It was not reported whether any of these 23 children were actually adopted, or if their permanency goal was later changed from adoption to "alternative planned permanent living arrangement," the foster care jargon for growing up in and emancipating from foster care.

Third are the costs of adoption and kinship subsidies for children under age 18 and the cost of non-kinship guardianship subsidies regardless of age induced by the policy changes, discussed in Parts II.a.iii and II.a.iv. All of these adoptions and guardianships will also induce new savings because, but for the policy changes, the affected children would remain in foster care.

Fourth is the cost to update CFSA's FACES data system. That will be a one-time first year expense and is thus included in the first year costs.

b. *Immediate savings*

The savings discussed in Part II.b include two categories of savings: personnel costs and non-personnel costs. Personnel costs will not fully be realized immediately. Those savings depend on lower foster care caseloads over time, which will permit District agencies to reduce the total number of FTEs assigned to foster care cases either through attrition or reductions in force. CFSA staff costs and legal costs (which are primarily Office of the Attorney General staff costs), discussed in Parts II.b.i and II.b.iv respectively, are the only savings that involve personnel expenses. Although some staff costs will likely be saved during the first two years of these policy changes, we will conservatively assume that these savings will be zero in the first two years of these policy changes.

Non-personnel expenses will be realized immediately. When a child leaves foster care to adoption or guardianship, the child's legal status immediately changes. The child leaves government custody and becomes the responsibility of the adoptive parent or permanent guardian. CFSA stops paying foster care subsidies because the child is no longer in foster care. If the child had been in congregate care, CFSA stops paying congregate care costs – by definition, if the child lives with an adoptive parent or permanent guardian, the child does not live in congregate care. If the child had been in a therapeutic foster home, CFSA stops paying the private foster care agency a per diem to manage the child's case and provide an elevated subsidy to the foster parent. If CFSA has been paying directly for some services for the child, its obligation to do so ceases. If the adoptive parent or permanent guardian lives outside of the District of Columbia, finalization of the adoption or guardianship immediately changes the child's residency from the District to the jurisdiction in which the child and adoptive parent or permanent guardian live. Accordingly, the District's obligation to pay for the child's education and medical, mental health, dental, and vision care ends immediately.

As a result, all of the above-listed savings, discussed in Parts II.b.ii.1, II.b.ii.2, II.b.iii, II.b.v, and II.b.vi, take effect immediately upon a child's adoption or guardianship, and we calculate the costs and savings in the first two years accordingly.

c. *Other factors*

Three other factors affecting the first two years of implementation are worth noting.

First, adoptions and guardianships induced by these policy changes – which, as explained in Part III.a, will make up nearly all of the first two years of costs – will not occur overnight. They will require adoption and guardianship petitions to be filed in and adjudicated by the Family Court, a process that will take several months in most cases. As a result, they will not be in effect for the entire year. It is difficult, however, to predict exactly when adoptions and guardianships will be finalized; that will depend primarily on how quickly the Family Court processes cases. Absent a more precise method of calculating when in the first year adoptions and guardianships will be finalized, we will assume that they will be finalized at the midpoint of the relevant fiscal year. We will thus divide the projected costs and savings for the first year in half.[77]

Second, federal stimulus dollars increases the federal reimbursement rate for Title IV-E eligible adoption, guardianship, and foster care subsidies from 70% to 76.2% until the end of calendar year 2010. The increased federal reimbursement rate will reduce the cost of adoption and guardianship subsidies in the first year and part of the second year of the policy changes' effect. (The increased federal reimbursement rate is factored into the calculations of adoption and guardianship subsidy costs in Part II.a and foster care subsidy savings in Part II.b.)

Third, in the first year of the policy changes' effect – fiscal year 2010 – no federal money for foster care for 18-21 year olds will be available. Thus, in that year, the savings of 18-21 year olds receiving adoption subsidies will be amplified. As discussed in Part II.a.i, some of those subsidies will be eligible for federal reimbursement, while none of the affected children's foster care subsidies would have been so eligible had they remained in foster care.

d. *Overall immediate costs and benefits*

To calculate the costs and savings that will occur in the first two years of the policy changes effect, we first calculate the savings that will take effect immediately, excluding those savings which will take time to fully realize. That involves adding the savings projections from Parts II.b.ii.1, II.b.ii.2, II.b.iii, II.b.v, and II.b.vi for the first two years of the policy changes' effect. The first year savings are then divided in half, as discussed in Part III.c. Those figures are:

Year 1 savings
Expected: $2,435,666
Low: $1,779,605
High: $3,116,331

Year 2 savings
Expected: $4,892,477
Low: $ 3,574,770

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[77] The one exception to this are the one-time FACES costs to upgrade CFSA's database.

High: $6,258,993

The cost projections in Part II.a have already incorporated the various factors that will take time to come into effect, specifically the number of former foster youth aged 18-21 in any specific year and the developing administrative costs from one year to another. Thus we use the same total costs calculated in Part II.a.vi, with the first year savings are then divided in half, as discussed in Part III.c.:

Year 1 costs
Expected: $1,143,770
Low: $987,557
High: $1,279,436

Year 2 costs
Expected: $1,400,747
Low: $1,066,549
High: $1,680,250

Total savings are calculated by subtracting the projected costs from projected savings:

Year 1
Expected: $1,291,896
Low: $792,049
High: $1,836,894

Year 2
Expected: $3,491,729
Low: $2,508,220
High: $4,578,743

## IV.    Conclusion

When it comes to finding permanent families for foster children who cannot return to their birth families, policy and fiscal goals align. CFSA Director Dr. Roque Gerald said it best at his confirmation hearing in May 2009:

> Most importantly, if we are an effective system, our resources will be freed [to focus on] two specific areas: front end prevention . . . and the support of those families who have moved to permanency . . . . It should be in a high-

performing agency that the funds that we spend on subsidy for adoption and guardianship [are] much higher than what we're spending for kids in care.[78]

Extending adoption and guardianship subsidies until age 21 and expanding guardianship subsidies to include non-kin will substantially increase the number of children who live with permanent families and it will immediately save the District money in the first year.

The projections discussed above display several crucial points:

1. **The proposed policy changes will move hundreds of children out of foster care and into permanent families.**
   - The proposed policy changes will reverse the severe decline in the District's record of moving foster children to permanency.
2. **The proposed policy changes will save the District millions of dollars.**
   - These savings estimates are extremely conservative; real savings are likely higher than what is projected in this study.
   - These savings will be highest in the short term, when the District is facing a severe budget crunch.
3. **Each adoption and guardianship saves, on average $37,000 in various expenses to the District, far more than the cost of an adoption or guardianship subsidy.**
   - Even adoption and guardianship subsidies that must be paid for entirely with local funds are far less expensive than keeping a foster care case open.

This study concludes that enacting statutory changes to extend adoption and guardianship subsidies until age 21 and expand guardianship subsidies to include non-kin is not only affordable, but cost saving.

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[78] Testimony of Dr. Roque Gerald, District of Columbia Council, Committee on Human Services, May 13, 2009, *available at* http://oct.dc.gov/services/on_demand_video/on_demand_may_2009_week_3.shtm. The quoted language begins at hour marker 2:26.

# Appendix A:
## Statutory language of Bill 18-453, the Adoption and Guardianship Expansion Act of 2009,"[79] and section-by-section analysis of that bill

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[79] An electronic copy of the bill may be found at http://www.dccouncil.us/lims/legislation.aspx?LegNo=B18-0453&Description=ADOPTION-AND-GUARDIANSHIP-EXPANSION-ACT-OF-2009.&ID=23136.

_____
Councilmember Michael A. Brown

A BILL

_____

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

_____

Councilmembers Michael A. Brown introduced the following bill, which was referred to the
Committee on _____.

To amend Title 4, Chapter 3 to provide adoption subsidies for neglected children until the
children turn 21 years of age; to amend Title 16, Chapter 23, Subchapter V to provide
guardianship subsidies for neglected children until the children turn 21 years of age; to
amend Title 16, Chapter 23, Subchapter V to provide for the permanent guardianship of
neglected youth 18 years of age and older with open neglect cases; and to amend Title 16,
Chapter 23, Subchapter V to require the Child and Family Services Agency to provide
guardianship subsidies to permanent caregivers other than kin.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
act may be cited as the "Adoption and Guardianship Expansion Act of 2009."

Section 1: Adoption subsidies until 21

D.C. Code Section 4-301(e) is amended by striking the number "18" and inserting the

number "21".

Section 2: Guardianship subsidies until 21

D.C. Code Section 16-2399(d) is amended by striking the number "18" and inserting the

number "21".

Section 3: Guardianship for youth over 18

(a)     A new D.C. Code Section 16-2382(a)(5) is added:  "'Child' means an individual

who is under the age of 21 and who is the subject of a proceeding pursuant to Subchapter I of

Chapter 23 of Title 16."

(b)     D.C. Code Section 16-2390 is amended to read: "The court shall have jurisdiction to enter a guardianship order and shall retain jurisdiction to enforce, modify, or terminate a guardianship order until the child reaches 21 years of age.  When the child is 18 years of age or older, the court may exercise or retain jurisdiction only when the child consents and when the court finds that it is in the best interests of the child."

Section 4:  Non-kinship guardianship subsidies

D.C. Code Sections 16-2399(b)(2) and 16-2399(b)(3) are deleted and Section 16-2399(b)(4) is renumbered 16-2399(b)(2).

Section 5: Prospective effect

The provisions of this bill will affect adoptions and guardianships which are finalized on or after the effective date of this bill.

Section 6: Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Section 7: Effective date

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

**Section-by-section analysis**

Section1: Section 1 clarifies that an adoptive family's eligibility for an adoption subsidy continues until the adopted child turns 21. The bill's language follows the existing statute, D.C. Code § 4-301(e), except that the phrase "18 years of age" has been changed to "21 years of age."

Section 2: Section 2 amends the guardianship statute to provide that a permanent guardian remains eligible to receive a guardianship subsidy until the child placed in the guardian's care reaches 21 years of age. The current statute provides that eligibility for the subsidy extends only "until the child reaches 18 years of age." D.C. Code § 16-2399(d).

Section3: Section 3 makes two conforming amendments to the guardianship statute to provide for guardianships of neglected youth 18 years of age or older who remain in the foster care system. Section 3(a) amends the definition of "child" for purposes of the guardianship statute to include individuals up to age 21 with open neglect cases. Section 3(b) amends the provision governing the Family Court's jurisdiction over guardianship cases to make clear that the Court has jurisdiction to order a permanent guardianship for a foster youth 18 years of age of older when such a youth consents to the guardianship.

Section 4: Section 4 deletes statutory provisions that limit the availability of guardianship subsidies to approved kinship foster parents caring for children in CFSA's legal custody. Section Four thus expands the availability of guardianship subsidies to non-kinship foster parents and third party placements.

Section5: Section 5 provides that the extended and expanded subsidies will only be available to adoptions and guardianships subject to final orders issued once this bill is effective. Adoptions and guardianships prior to that point will not be eligible for extension until age 21 or non-kinship guardianship.

**DRAFT**

## Redlined version of changes the Adoption and Guardianship Extension Act will make to existing D.C. Code

D.C. Code § 4-301(e)

(e) The amount and duration of adoption subsidy payments may vary according to the special needs of the child, and may include maintenance costs, medical, dental, and surgical expenses, psychiatric and psychological expenses, and other costs necessary for his care and well-being. A subsidy may be paid on a long-term basis to help a family whose income is limited and is likely to remain so; on a time-limited basis to help a family meet the cost of integrating a child into the family over a specified period of time; or on a special services basis to help a family meet a specific anticipated expense or expenses when no other resource appears to be available. Eligibility for payments shall continue until the child reaches ~~18~~ 21 years of age.

D.C. Code § 16-2399(d)

(d) Eligibility for subsidy payments under this section may continue ~~during the period of the guardianship order~~ until the child reaches ~~18~~ 21 years of age.

D.C. Code § 16-2382(a)

(a) For the purposes of this subchapter, the term:

  (1) "Agency having responsibility for the child" means the Mayor or his or her designee.

  (2) "Guardianship order" means the court document that establishes the permanent guardianship and enumerates the permanent guardian's rights and responsibilities concerning the care, custody, and control of the child.

  (3) "Health care" includes, but is not limited to, ordinary and emergency medical, dental, psychological, psychiatric, and mental health care and treatment.

(4) "Permanent guardian" means an individual or individuals designated by the court pursuant to this subchapter.

(5) "Child" means an individual who is under the age of 21 and who is the subject of a proceeding pursuant to Subchapter I of Chapter 23 of Title 16.

D.C. Code § 16-2390

The court shall have jurisdiction to enter a guardianship order and shall retain jurisdiction to enforce, modify, or terminate a guardianship order until the child reaches ~~18~~ 21 years of age. When the child is 18 years of age or older, the court may exercise or retain jurisdiction only when ~~If the court finds that it is in the child's best interest and if~~ the child consents and when the court finds that it is in the best interest of the child.~~, the court may retain jurisdiction until the child reaches 21 years of age.~~

D.C. Code § 16-2399(b)

(b) For a permanent guardian to be eligible for subsidy payments under this section:

(1) The child must be adjudicated neglected pursuant to section 16-2317;

~~(2) The child must be committed to the legal custody of the Child and Family Services Agency;~~

~~(3) The permanent guardian must be an approved kinship caregiver, as that term is defined in section 4-1301.02(14);~~ and

(~~4~~2) A subsidy payment agreement must be entered into by the Child and Family Services Agency and the permanent guardian.

# Appendix B:

Memorandum addressing Title IV-E penetration rates for adoption and kinship guardianship subsidies for 18-21 year olds

**MEMO**

To: Loren Ganoe and Andrea Guy, Child and Family Services Agency
From: Josh Gupta-Kagan and Judith Sandalow, Children's Law Center
Date: March 23, 2009
Re: Expanding CFSA's access to federal funds for adoption subsidies to age 21

Thank you for our detailed and productive meeting on Monday. This memo addresses

one of the questions discussed: whether CFSA can increase its Title IV-E revenues for adoption

and guardianship subsidies for 18 to 20 year old youth by adopting a broad definition of which

conditions "warrant" extension. The answer is yes, adopting a broad definition of such

conditions will allow CFSA to recoup federal dollars for about two-thirds of subsidies provided

after a youth turns 18. Accessing those funds will immediately allow for more subsidy

extensions for adoptive parents who need the extensions to support their children and will help

increase federal revenue to support extending adoption and guardianship subsidies to all 18 to 20

year olds. Adopting such a definition would also fill a gap in CFSA's existing regulations and

policies, which currently do not define those conditions which warrant extension.

I.       **Legal Background**

Federal law provides that federal funds will support an adoption subsidy until age 21 if

"*the State determines* that the child has a mental or physical handicap which warrants the

continuation of assistance."[80] This same definition will apply to relative guardianship subsidies

for youth 18 to 20 years old beginning in FY 2011.[81] The federal government will pay 76

percent of the cost of eligible adoption and guardianship subsidies in FY'09 and FY'10, and 70

percent thereafter.[82] Federal law gives states the freedom to define which mental or physical

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[80] 42 U.S.C. § 673(a)(4)(A) (emphasis added).
[81] Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, § 201(c) (2008) (amending 42 U.S.C. § 673(a)(4)). That provision takes effect on October 1, 2010, the first day of FY 2011. *Id.* at § 201(d).
[82] 42 U.S.C. § 674(a).

handicaps warrant a federally-supported subsidy until age 21. Numerous states have defined

such conditions relatively broadly as part of efforts to extend subsidies to some or all youth

between 18 and 20 years old.[83]

We have consulted with the North American Council on Adoptable Children (NACAC),

a national organization with expertise in adoption funding, which concurred that states can obtain

IV-E funds to support subsidies for adopted youth who the state defines as having some

condition which "warrants" a subsidy extension to age 21.

## II.      Proposed Definition and Impact

We suggest that "mental or physical handicap which warrants the continuation of

assistance" be defined as: A child has a mental or physical handicap which warrants the

continuation of adoption assistance if the child meets *any* of the following criteria:

- The child has any Axis I, Axis II, or Axis III diagnosis

- The child has a "global assessment of functioning" score under 70

- The child is a "child with a disability" for special education purposes[84]

- The child receives a Level II or higher adoption subsidy or foster care board rate

- The child has any documented physical handicap

- The parent establishes (through letters from doctors, educators, or any other service provider)

    that the child exhibits symptoms of a physical or mental condition requiring significant

    parental attention

- The child will or did not graduate high school or its equivalent by age 18 due to some

    academic delays (including having to repeat one or more years of school)

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[83] For a state-by-state list of such laws and policies, *see* Mary Eschelbach Hansen & Josh Gupta-Kagan, *Raising the Cut-Off: The Empirical Case for Extending Adoption and Guardianship Subsidies From Age 18 to 21*, 13 U.C. DAVIS J. OF JUV. L. & POL'Y, 1, 13-14, 24 (2009).
[84] 20 U.S.C. § 1401(3).

We estimate that about two-thirds of youth living with adoptive parents or permanent guardians would meet one or more of these conditions at the age 18. We base that estimate on a poll we conducted of CLC attorneys asking attorneys to consider clients (or children cared for by adult clients) in the neglect system and whether those children and youth met one or more of the factors listed above. According to that survey, more than half of all children in foster care meet one or more of these conditions, and that rate is significantly higher for children and youth with permanency goals other than reunification (65% meet one or more of these conditions) and for youth 18-20 (84% meet one or more of these conditions). Considering the population of children to whom this policy would apply – youth 18-20 living with adoptive parents and permanent guardians – we believe that our estimate that two-thirds of such youth would meet one or more of the above conditions conservatively estimates the true effects.

We look forward to talk with you and your staffs further about these issues. Please do not hesitate to contact us at any time.