

# Permanency!

Tom C. Rawlings

Director

**Georgia Office of the Child Advocate**

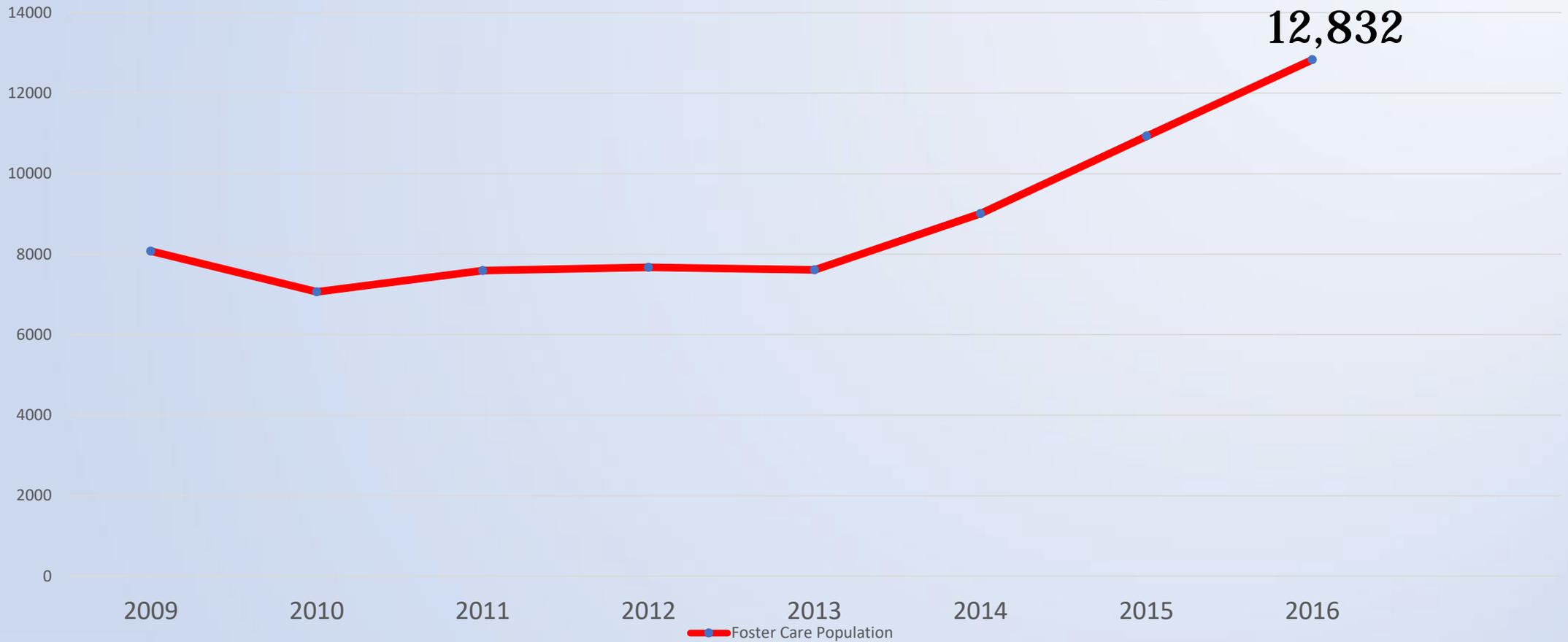


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# Georgia's Foster Care Population

September, 2016

12,832



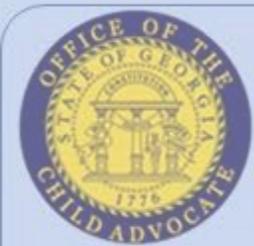
# Permanency

- **October 2015-September 2016**
  - **Inflow of Foster Children: 8,570**
  - **Discharges from Foster Care: 6,940**
    - **Reunification: 3,876**
    - **Relative Custody: 884**
    - **Adoption: 1,026**
    - **Transfer: 172**
    - **Emancipation: 531**
    - **Guardianship: 395**
    - **Runaway: 45**
    - **Death: 11**



# Barriers to Permanency

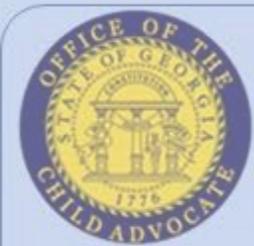
- **Length of Stay:**
  - Overall: 10.1 months
  - Removal to:
    - Reunification: 7.2 months
    - Relative custody: 4.5 months
    - TPR: 19 months
    - Adoption: 30.7 months



# Barriers to Permanency

- **Children 0-5:**

- 4,650 or so in foster care.
  - Average time in care: 12.7 months



# Barriers to Permanency

- **Older youth:**

- 3000 in foster care are 14 or over
- Of those, about 375 have an APPLA permanency plan.
- Average months in care: 26.5
- Median months in care: 18
- Range: 0 to 203 months





# After 20 Years, Young Man Leaves Foster Care On His Own Terms

6:25

January 11, 2017 · 4:29 PM ET

Commentary heard on All Things Considered

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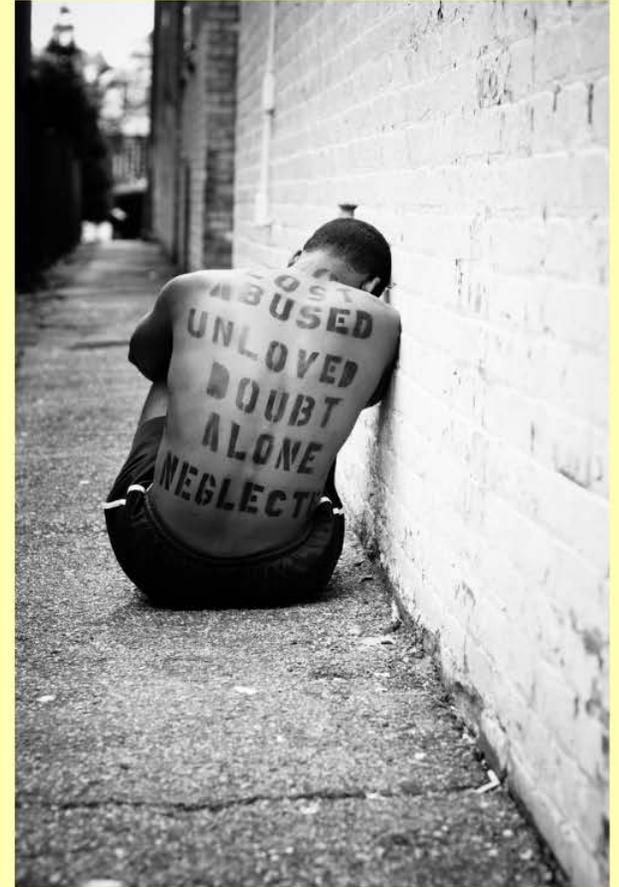
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Nationally, over 29,000 youth age out of foster care each year.

- 1/3 have a driver's license
- Fewer than 4 in 10 have at least \$250 in cash
- Fewer than 1/4 have the basic tools to set up a household
- Most have no more than a garbage-bag of belongings

Most have no connection to a responsible adult

(ABA Commission on Youth at Risk, 2010)



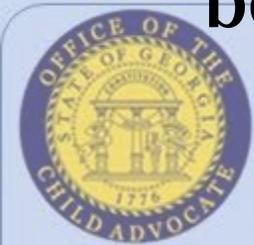
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# APPLA

b) The permanency plan incorporated in the court's order shall include:

- (1) Whether and, if applicable, when a child adjudicated as a dependent child shall be returned to his or her parent;
- (2) Whether and, if applicable, when a child adjudicated as a dependent child shall be referred for termination of parental rights and adoption;
- (3) Whether and, if applicable, when a child adjudicated as a dependent child shall be placed with a permanent guardian; or
- (4) In the case in which DFCS has documented a compelling reason that none of the options identified in paragraphs (1) through (3) of this subsection would be in the best interests of the child, whether, and if applicable, when such child shall be placed in another planned permanent living arrangement.

• OCGA § 15-11-232.



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# APPLA

- **No longer available for children under 16.**
  - When available, must:
    - At each permanency hearing, inquire:
    - Whether DFCS has documented intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts to return the child to the home or to secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent, including through efforts that utilize search technology, including social media, to find biological family members for the children;
    - Whether DFCS has documented the steps it is taking to ensure that the child's foster family home or child care institution is following the reasonable and prudent parent standard and the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities; and
    - After asking the child, what his or her desired permanency outcome is.



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- OCGA § 15-11-232.

# Barriers to Permanency

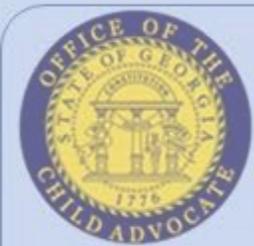
- **Older youth:**

- Independent Living Services:

- <https://www.gascore.com/content/page.cfm/349/>

- Written Transitional Living Plan

- [https://www.gascore.com/documents/13.3\\_Written\\_Transitional\\_Living\\_Plan.pdf](https://www.gascore.com/documents/13.3_Written_Transitional_Living_Plan.pdf)

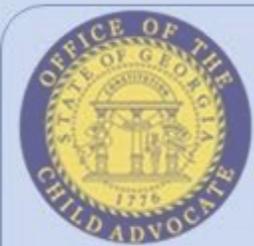


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# Barriers to Permanency

## • **Institutions**

- 1,854 children in congregate care on September 30, 2016
- 1,792 in “institution.” (over 12 children)
- As of July 2016, 34 children under the age of 14 and who are in DFCS custody resided in one of seven Psychiatric Residential Treatment Facilities (PRTFs) in Georgia.
- Most (30) had been in a PRTF for less than one year, but four had remained in such a setting for up to two years.





**HARM**

DOCTOR  
M. PERBATA

# Harm

OCGA § 15-11-310:

- a) In considering the termination of parental rights, the court shall first determine whether one of the following statutory grounds for termination of parental rights has been met:
- b) 5) A child is a dependent child due to lack of proper parental care or control by his or her parent, reasonable efforts to remedy the circumstances have been unsuccessful or were not required, such cause of dependency is likely to continue or will not likely be remedied, **and the continued dependency will cause or is likely to cause serious physical, mental, emotional, or moral harm to such child.**

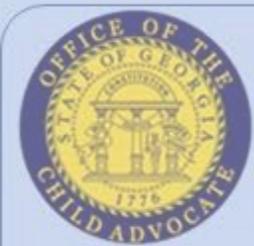


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# Harm

- In the absence of this permanency plan, the children will experience doubt, uncertainty and hesitancy in life, which the court finds will be harmful to the children.
- Without providing the children with the permanency of an adoptive home, these feelings are likely to continue.
- Based on all of the testimony, the court finds that the continued dependency, and the lack of a permanent adoptive home, will likely cause the children mental and emotional harm in the future.

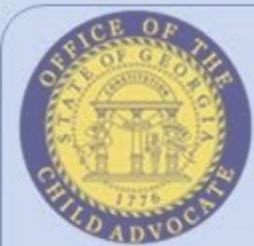
• **In Interest of E.M.D., 339 Ga. App. 189, 189, 793 S.E.2d 489, 490 (2016)**



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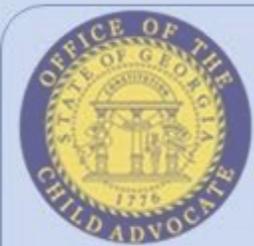
# Harm

- “Our law requires a juvenile court to consider not only the relationship between the parent and child at the time of the termination hearing, but also what might happen if the child were returned to the parent given the likelihood that the deprivation under which the child has been suffering would continue after a reunion with that parent.”
  - **In re J.E., 309 Ga. App. 51, 58, 711 S.E.2d 5, 10 (2011)**



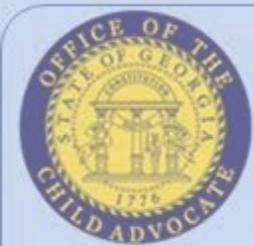
# Harm

- “This dual consideration makes sense given that the statute requires the State to show that continued dependency—not merely a specific arrangement for the child—will cause harm. Dependency will cause harm only if all of the options available to DFCS short of termination—keeping the child in foster care, or returning the child to the parent—will themselves cause harm. Thus, it follows logically that the potential harm of both options should be considered.”
  - In Interest of E.M.D., 339 Ga. App. 189, 201, 793 S.E.2d 489, 498 (2016)



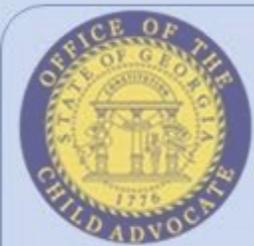
# Harm

- “Under this framework, whether returning the child to the parent would cause harm matters little if there is no evidence that the child is likely to experience serious harm under the status quo. And, indeed, the trial court here made no specific findings on the former question, merely stating in general terms “that the evidence supports a finding of harm if the children were to be returned to a parent.”.”
  - In Interest of E.M.D., 339 Ga. App. 189, 201, 793 S.E.2d 489, 498 (2016)



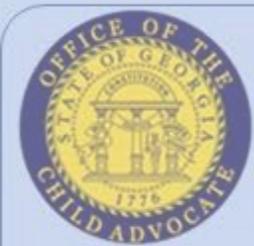
# Harm

- “In considering whether there is evidence that remaining in foster care will cause serious harm to a child, we have examined both (1) the extent to which instability and impermanency are “currently causing specific harms” to the child and (2) whether the parent's current relationship with the child is itself detrimental.”
  - In Interest of E.M.D., 339 Ga. App. 189, 202, 793 S.E.2d 489, 499 (2016)



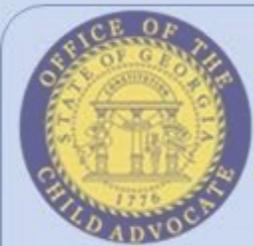
# Harm

- There is no evidence in this record that maintaining the mother's relationship with the children while they remain in the protection of foster care will itself cause them harm.
- Rather, [the court] relied on generalized findings that the children would experience harm absent the stability and permanency of an adoptive home. It is true that we have observed that “children need permanence of home and emotional stability, or they are likely to suffer serious emotional problems.
- Insufficient
  - In Interest of E.M.D., 339 Ga. App. 189, 202, 793 S.E.2d 489, 499 (2016)



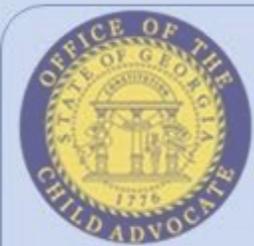
# Harm

- Harm from remaining in foster care has two elements:
  - the extent to which instability and impermanency are "currently causing specific harms" to the child and:
  - whether the parent's current relationship with the child (while the child is in foster care) is itself detrimental.
- So what is sufficient?
  - Explanation of all the alternatives.
  - Expert testimony on how continuing dependency will harm this child given all of the alternatives.



# Harm

- Here: “We do not doubt that many children, especially older children, suffer emotional stress and sadness from the uncertainty inherent in foster care. But this is not enough “to show that continuing the legal relationship of parent and child is inherently harmful to the children.”



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# Harm

- Compare:
  - “harm shown where record included not only expert testimony about potential problems from lack of stability in foster care, but also evidence that child regressed after visits with mother by acting out, not following direction, and soiling himself, and became distraught when mother, who had an intellectual disability, did not show up for scheduled visits). Here, there was no evidence presented at the hearing that in their current circumstances the children were performing poorly in school or displaying significant age-inappropriate behavioral problems”

