

LEGAL ORPHANS PERMANENT FAMILIES

*Improving Outcomes by Achieving
Permanency for Legal Orphans*

Judge Sharon McCully (Ret.)

December 13, 2012

NCJFCJ December Webinar Series

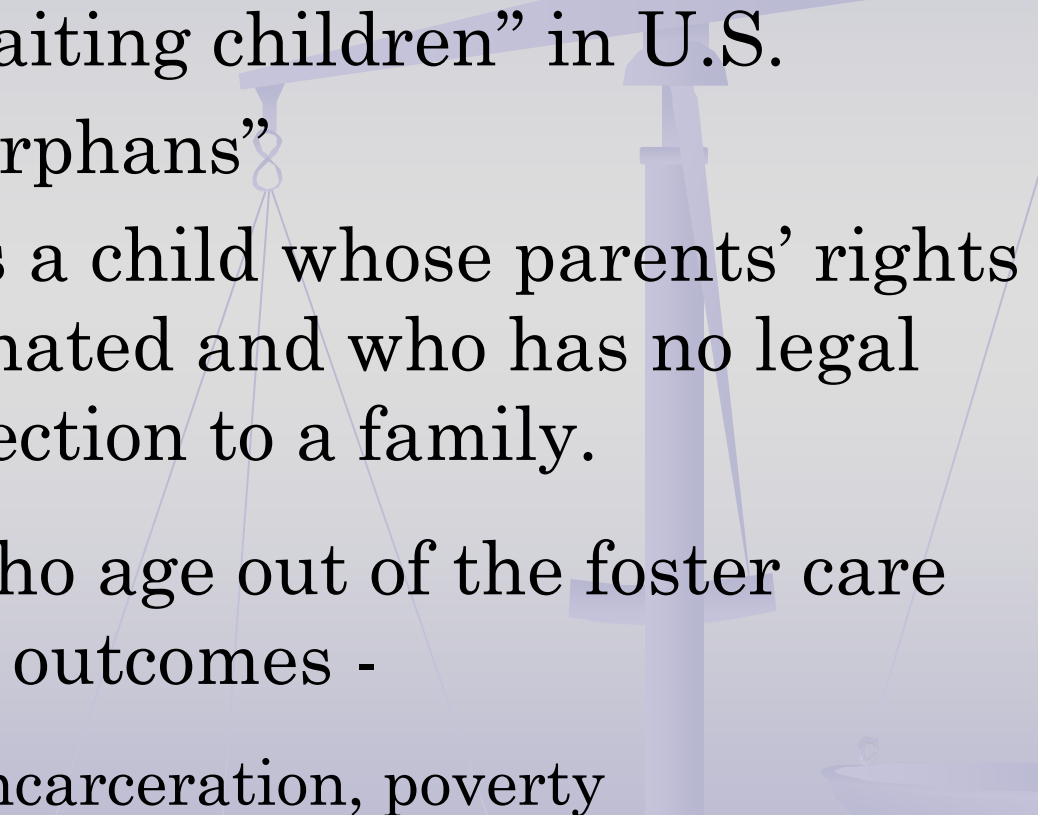


WAITING CHILDREN



Children lined up to board an orphan train about 1920. (Patrick-Heets-Trickel Collection, Trenton, Mo.)

WAITING CHILDREN - LEGAL ORPHANS

- Over 100,000 “waiting children” in U.S.
 - Most are “legal orphans”
 - A legal orphan is a child whose parents’ rights have been terminated and who has no legal permanent connection to a family.
 - Legal orphans who age out of the foster care system face poor outcomes -
 - Homelessness, incarceration, poverty
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LEGAL ORPHANS PROJECT

- Purpose ~ To reduce the numbers of legal orphans aging out of the foster system without legal permanency.
- NCJFCJ in cooperation with judicial leaders and Court Improvement Projects in New Jersey, Ohio, Texas and Georgia
- Technical Assistance Bulletin 2013 and ongoing education and leadership

Federal Legal Framework



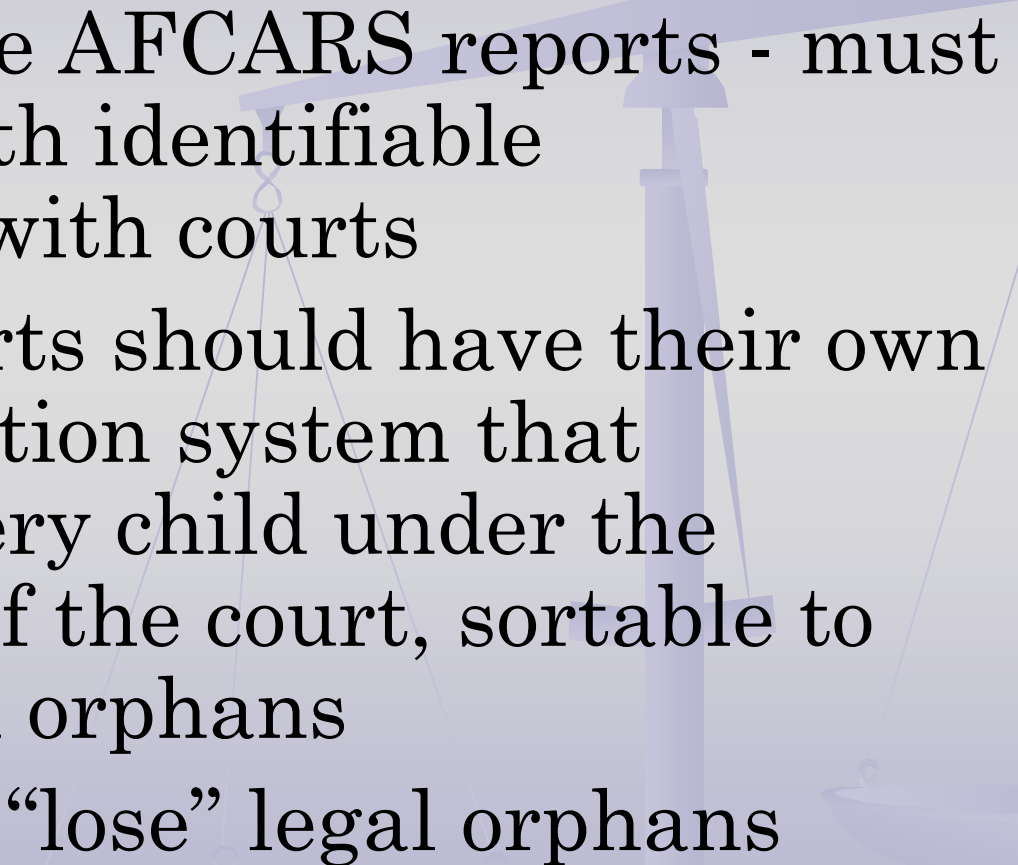
- **ASFA** - courts have authority and responsibility to provide oversight on every dependency case, including frequent reviews after TPR to ensure permanency for legal orphans.
- **Fostering Connections** - emphasizes family finding, kinship support, and keeping siblings together.

Identifying Legal Orphans



- AFCARS shows steady increase in legal orphans aging out and at risk of aging out
- Legal orphans exiting to non-permanency in 2009 - **4,898**
- Legal orphans aged 16-18 at risk of aging out in 2009 - **6,474**

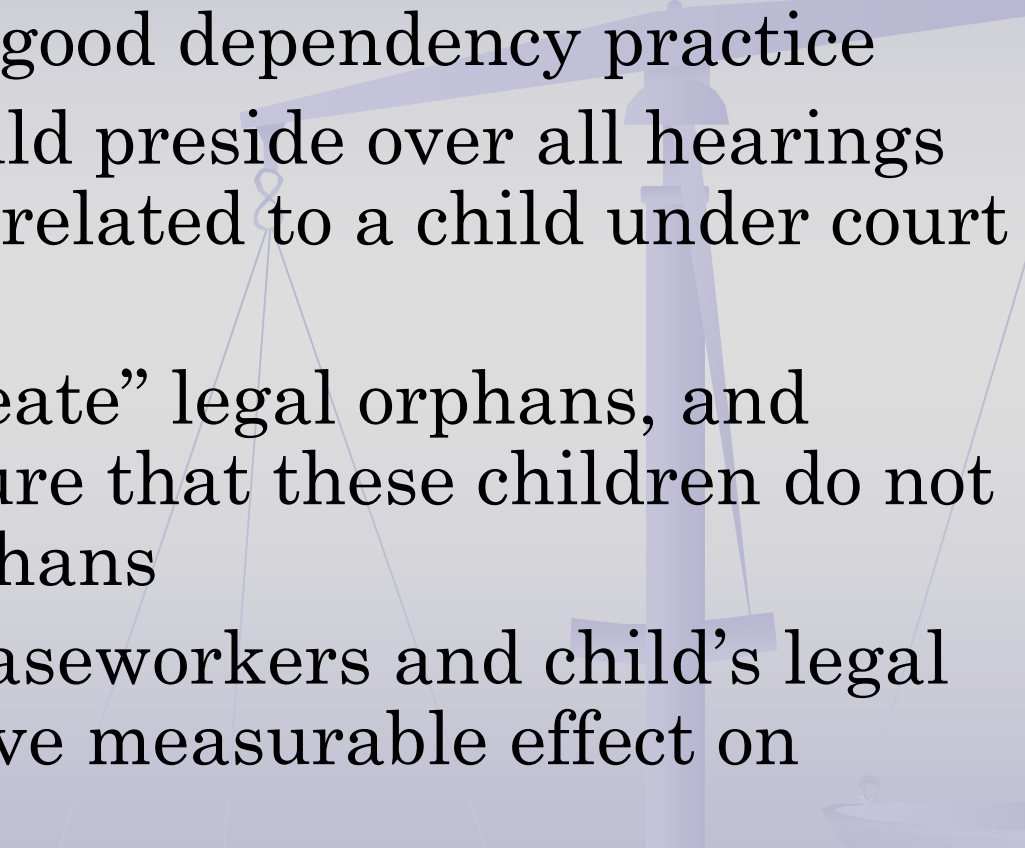
Courts Must Identify and Measure Legal Orphans

- States receive AFCARS reports - must be shared with identifiable information with courts
 - All state courts should have their own data information system that identifies every child under the jurisdiction of the court, sortable to identify legal orphans
 - No excuse to “lose” legal orphans
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BEST PRACTICE RECOMMENDATIONS

- Builds upon the foundation of *Resource Guidelines* and *Adoption and Permanency Guidelines*
- Vision of *Key Principles for Permanency Planning for Children*
- **“Every child has the right to a safe, permanent home and every child is adoptable.”**

ONE FAMILY - ONE JUDGE

- Fundamental to good dependency practice
 - Same judge should preside over all hearings and proceedings related to a child under court jurisdiction
 - Court orders “create” legal orphans, and courts must ensure that these children do not remain legal orphans
 - Consistency in caseworkers and child’s legal advocate - all have measurable effect on outcomes
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REVIEW, REVIEW, REVIEW



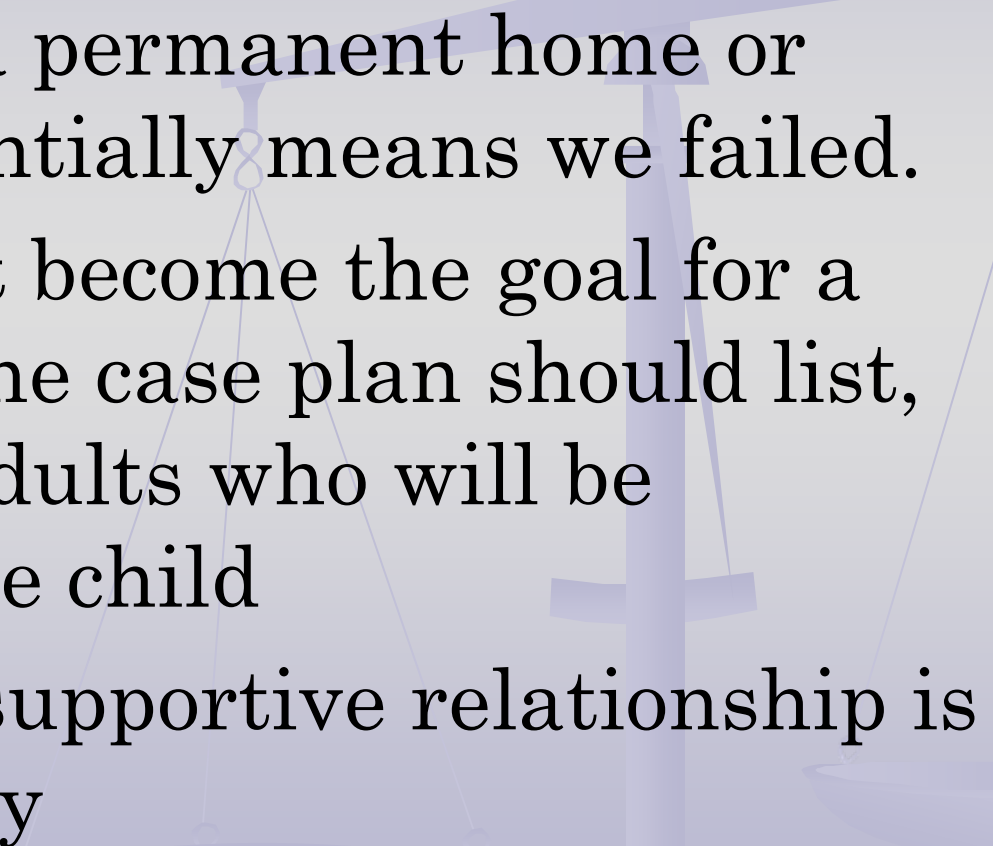
- Judicial oversight has been a permanency planning principle since AACWA 1980.
- Reaffirmed and strengthened in ASFA
- Recommend that every child, including legal orphans, should have judicial review at least every 90 days
- Frequent, intensive court review of legal orphans cases - astoundingly good outcomes in New Jersey

CONCURRENT PLANNING

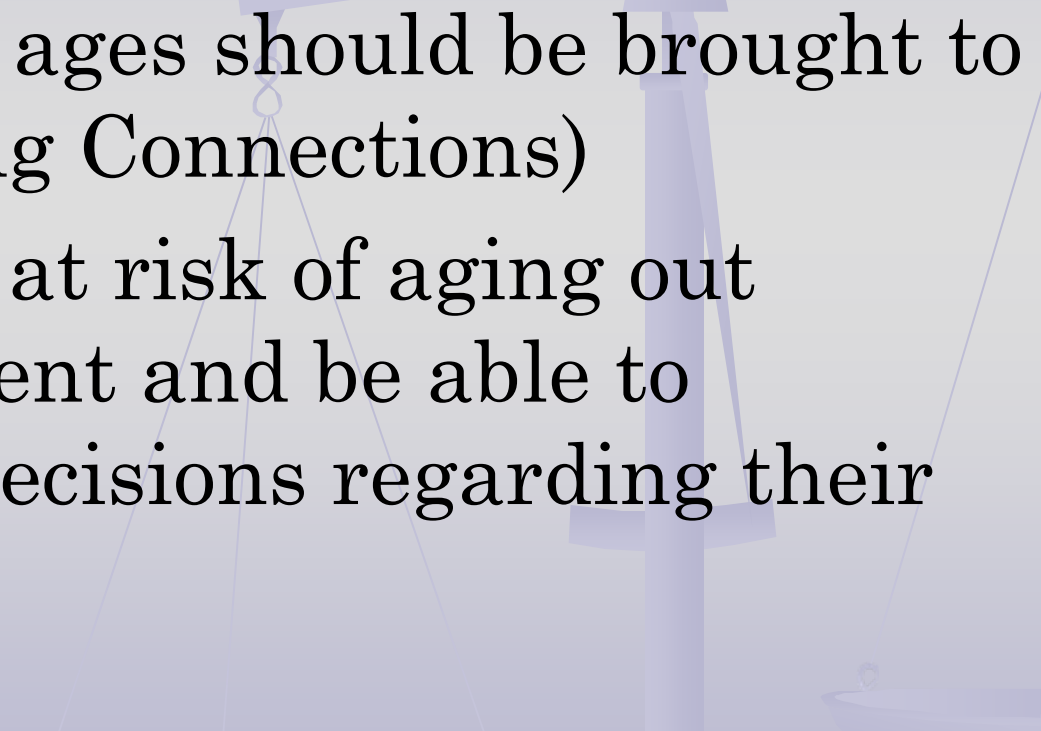


- Primary goal is reunification with parents
- Concurrent goal should be identified and pursued from beginning - to provide a permanent legal family if reunification not successful
- Continue concurrent planning after TPR - in order of priority
 - Adoption, guardianship, kinship placement
 - Reasonable efforts to pursue

APPLA Should Rarely Be The Permanency Plan

- APPLA is not a permanent home or family. It essentially means we failed.
 - If APPLA must become the goal for a legal orphan, the case plan should list, by name, the adults who will be connected to the child
 - A permanent, supportive relationship is key to resiliency
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CHILD MUST BE PRESENT AT EVERY COURT HEARING

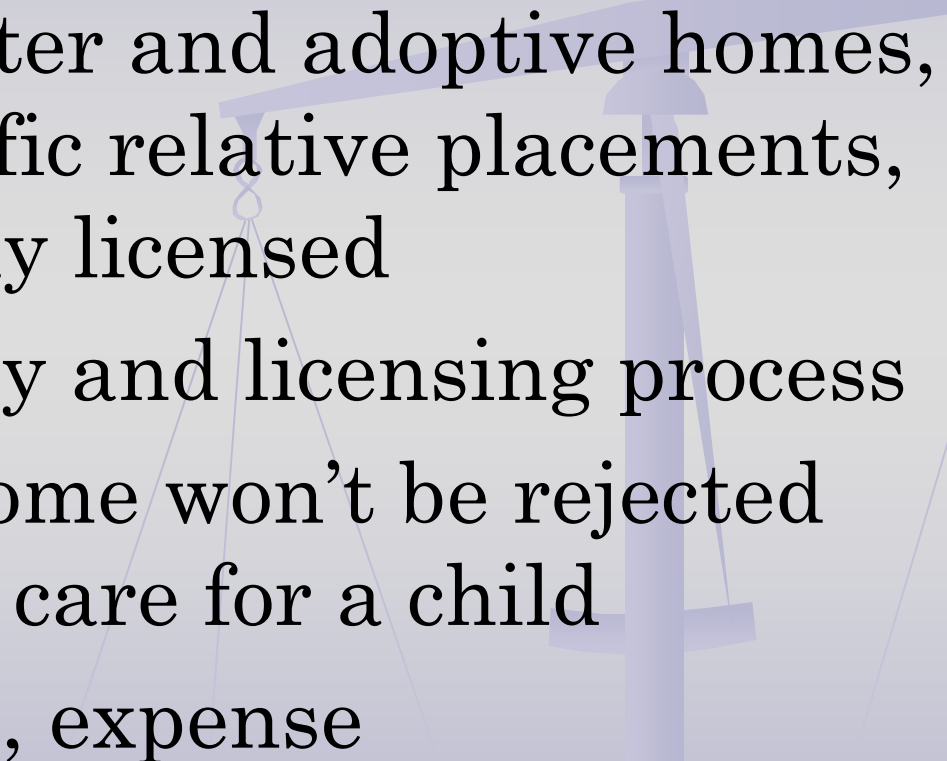
- Children of all ages should be brought to court (Fostering Connections)
 - Legal orphans at risk of aging out should be present and be able to contribute to decisions regarding their futures.
 - **LISTEN**
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FAMILY FINDING



- All adult relatives of a child must be notified within 30 days of removal (Fostering Connections)
- Quickly identifying and contacting relatives increases likelihood of adoption or guardianship.
- Family Search programs

DUAL LICENSING


- Prospective foster and adoptive homes, including specific relative placements, should be dually licensed
 - One home-study and licensing process
 - Assures that home won't be rejected after providing care for a child
 - Reduces delays, expense
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ADOPTION

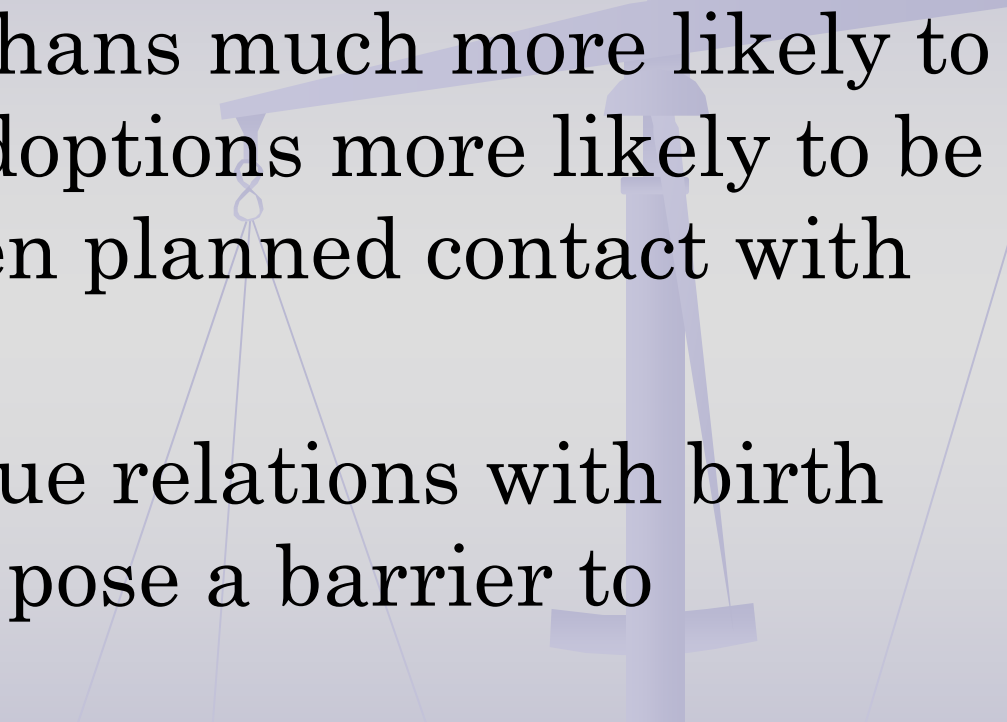


- Adoption is preferred permanency plan when parental rights terminated
- Must *believe* in the adoptability of all children
- Youth who are older, of minority ethnic or racial backgrounds, and with significant emotional or behavioral problems do in fact get adopted.

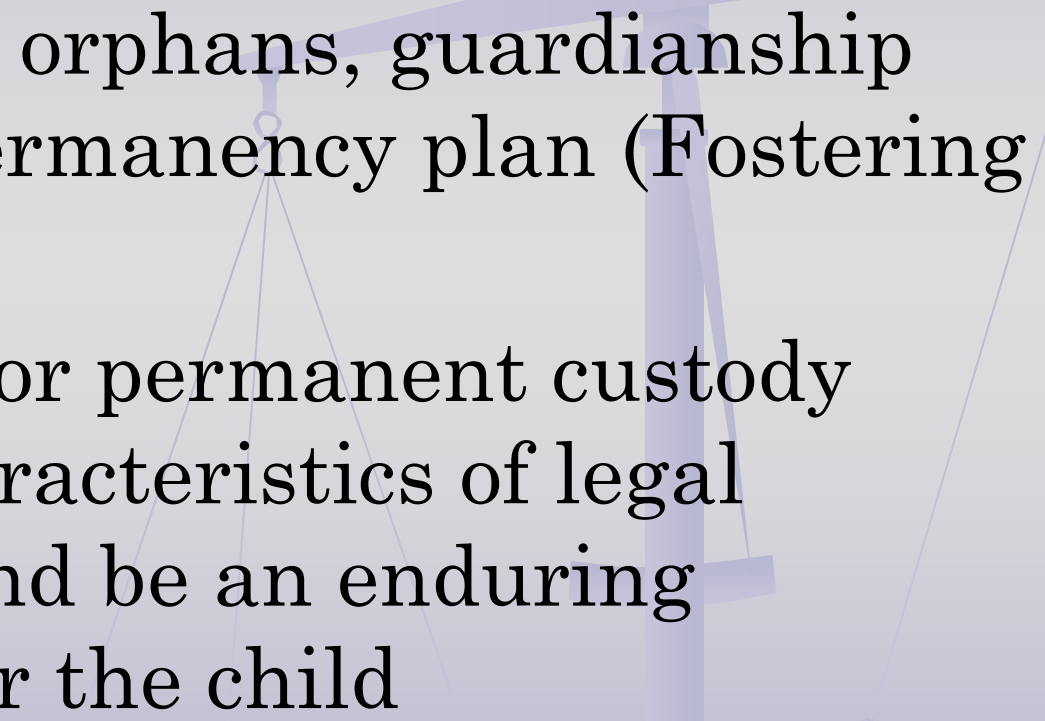
TARGETED RECRUITMENT

- Specific, intensive search and recruitment for legal orphans
 - Cold Case Reviews - look again at relatives previously rejected
 - Extreme recruitment
 - Reasonable efforts findings
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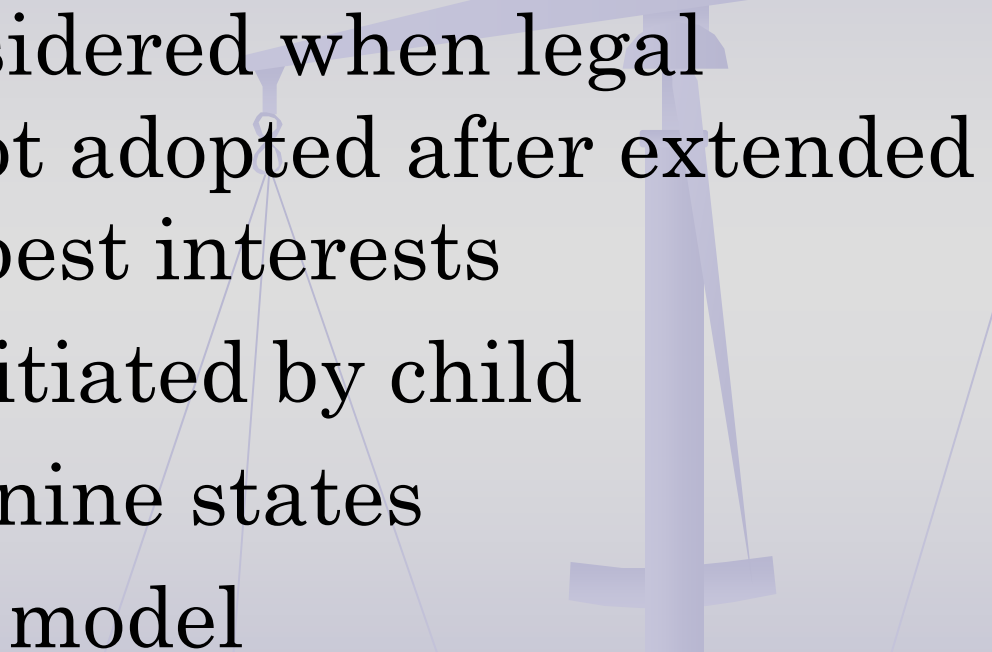
ADOPTION WITH CONTACT

- Older legal orphans much more likely to consent, and adoptions more likely to be successful, when planned contact with birth parents
 - Plans to continue relations with birth families do not pose a barrier to adoption
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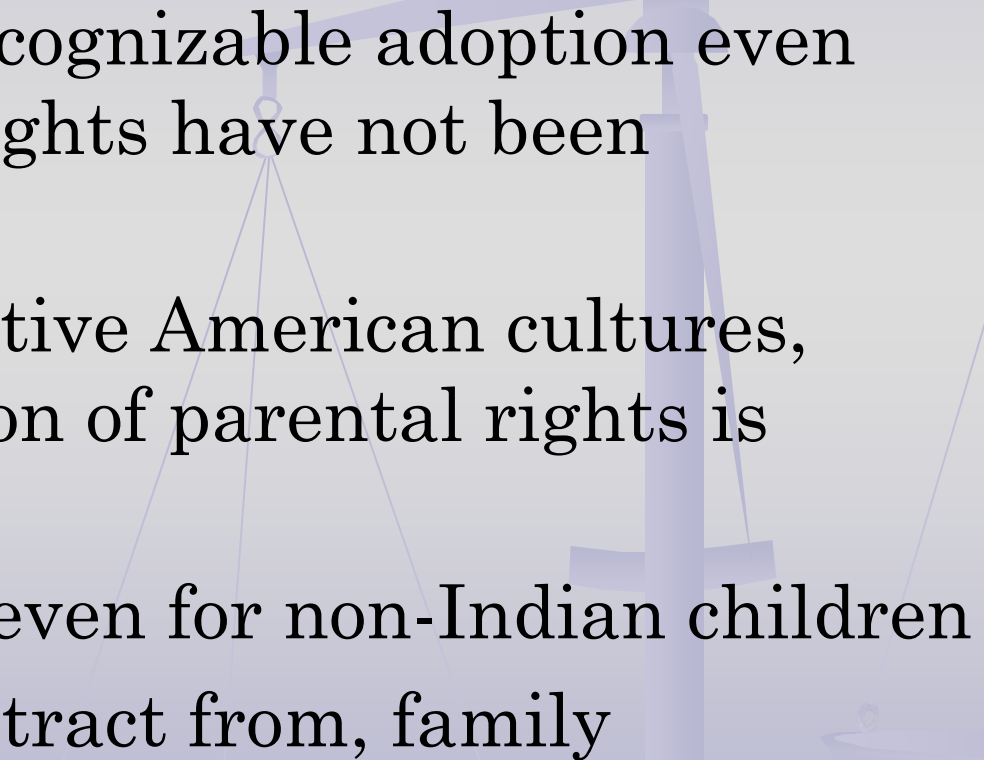
GUARDIANSHIP AND PERMANENT CUSTODY

- For some legal orphans, guardianship may be best permanency plan (Fostering Connections)
 - Guardianship or permanent custody must have characteristics of legal permanency and be an enduring relationship for the child
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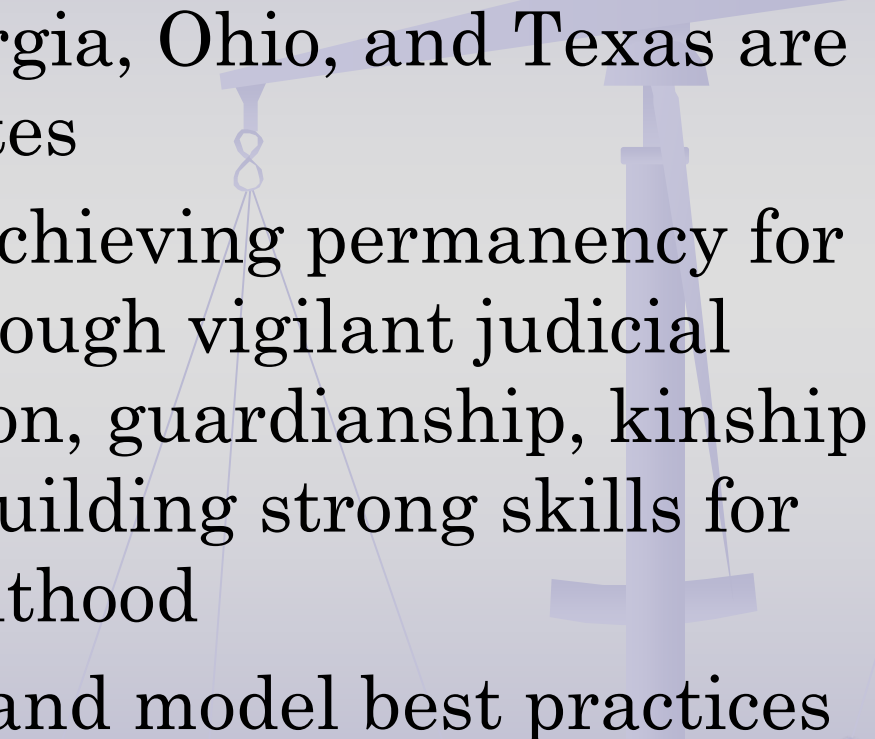
REINSTATEMENT OF PARENTAL RIGHTS

- Should be considered when legal orphans are not adopted after extended period and in best interests
 - Can only be initiated by child
 - Laws allow in nine states
 - California law model
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CUSTOMARY ADOPTION

- Allows legally recognizable adoption even when parental rights have not been terminated
 - Originates in Native American cultures, where termination of parental rights is objectionable
 - Might be option even for non-Indian children
 - “Add to,” not subtract from, family
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LEGAL ORPHANS PROJECT STATES

- New Jersey, Georgia, Ohio, and Texas are participating states
 - Strong focus on achieving permanency for legal orphans through vigilant judicial oversight, adoption, guardianship, kinship placement, and building strong skills for transition to adulthood
 - Will incorporate and model best practices
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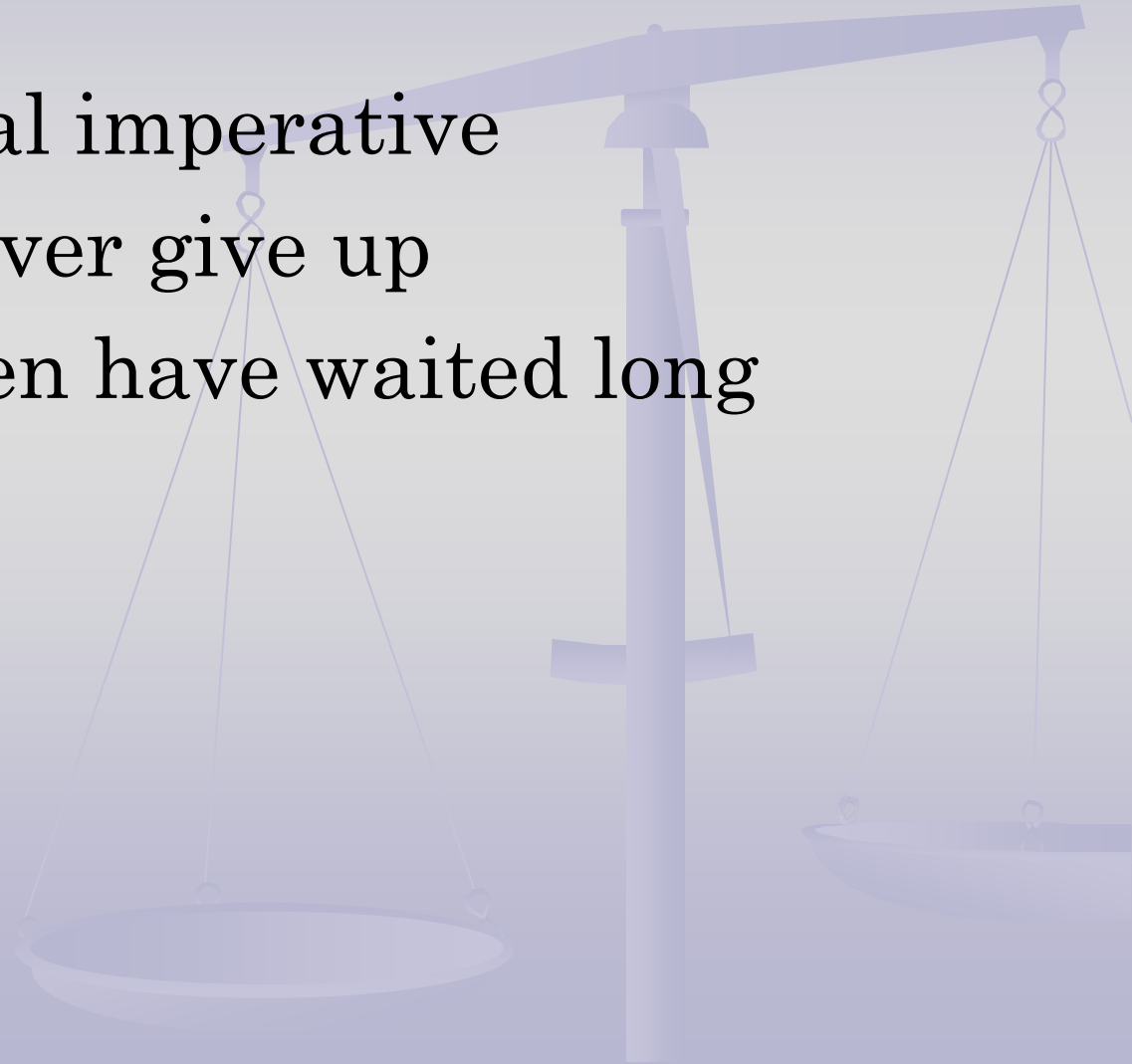
NCJFCJ RESOLUTION

March 2012

- Every child should have a permanent, legal relationship with a caring and safe adult.
- Judges create legal orphans through TPR, must ensure that child does not remain a legal orphan
- Calls for judicial action to reduce number of legal orphans through best practice recommendations
- *http://www.ncjfcj.org/sites/default/files/Resolution_LegalOrphans_fnl-3-21-12.pdf*

MUST SUCCEED

- Legal and moral imperative
- Must never, never give up
- Waiting children have waited long enough



Thank you!

