Emancipation Leaves Foster Kids Trapped in Poverty and Despair

By Melanie Delgado and Robert C. Fallmeth

When children in America turn 18, they "emancipate" into adulthood. They are able to work, sit a jury, enter into contracts and get married without parental permission. Until they reach that age, their parents are responsible for their care and sustenance. That responsibility is reflected in required child-support enforcement and even criminal liability for willful failure to provide for a child.

In this first part of a two-part exposition, we consider how these children are now faring in general and how our foster children, over whom we have a special obligation, are faring as they transit into adulthood. In the second part, we consider recent attempts to assist them, future anticipated costs and benefits from investments in their future, and the remedies mandated by the evidence.

The transformation into adulthood and independence is increasingly fraught with difficulty, especially for California's children. Although the state once had modest rents and free and accessible higher education, both of these cushions have been stripped from all but a small percentage of these former foster kids.

The median family income of families headed by these 18-21 year-olds is now equal, if not slightly lower, than the median income of families headed by young people between the ages of 21 and 25 in California. A surprising new number is the percentage of people aged 18 to 25 who are living with parents.

The majority of these young people have been emancipated from their parents' home, but this does not mean they have achieved independence. Many have grown up in poverty, and they are at risk for poverty in adulthood.

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And we have helped to represent thousands of them in dependency court and in the last 15 years. These youth are in a precarious state. They cannot boom in to college, to work for or attend a nearby community college. When they turn 18, or within several months thereafter, they become "emancipated" from foster care, and that is not like leaving home as most of us did. Their family foster care providers stop receiving any money for them and often take in other children for compensation who are sleeping where they used to sleep. Those in group homes are most often simply bid goodbye. Unless it is affirmatively provided, they do not have the safe harbor of a college return. Even if they manage to get into a college and live in a dorm, when summer vacation or holidays come, they likely have no place to go. You never miss the water until the dry well runs dry—goes the old cliché. We all take for granted what these children do not have: continued parental commitment as we enter adulthood.

Our study of how the federal and California jurisdictions are addressing this cut-off problem begins with

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the federal Chafee Foster Care Independence Act of 1999. This much-lauded statute gives states a small amount of money for rent support to age 21 and tuition vouchers up to age 23. But the rent money is trivial in amount. The $5,000 education grants are modest, often timed to be given in October or thereafter — with college fees and tuition due in August. And they are given to far less than 5 percent of emancipated foster kids. And even a full tuition ride is of little use if one must work full time just to pay the rent.

For its part, California’s Welfare and Institutions Code Section 303 allows the state to continue dependency jurisdiction in theory to age 21, possibly providing living-expense help. But absent extraordinary circumstances, California continues to cut off jurisdiction at 18, extending it only to 19 when kids need another year of high school. A few jurisdictions extend jurisdiction for a few months, but the vast majority of foster children are rudely “emancipated” into adulthood eight years before they statistically have reasonable odds of providing for themselves.

California has enacted two programs with great fanfare for these kids. The first, called Supportive Transitional Education, is limited to rent help for those pursuing higher education and has not been funded. The second, called Transitional Housing Program-Plus, intended to provide some housing help for those 18 to 21, was also enacted with great self-congratulatory fanfare. Until this year, it required up to a 60 percent county match, and of course the counties have few funds.

This year, that barrier was removed, but the Legislature then appropriated all of $5 million for this allegedly major effort to provide funds for emancipating foster youth. How much is that in relation to the target population? It represents 3 percent of the pro-rata funds California and U.S. parents give to their kids post-18.

In the second part of this exposition tomorrow, we consider what the state has done over the past several years and what it has not done. And we propose a prudent and cost-benefit-justified mechanism to fulfill our joint and several parental obligation to these kids.

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