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# Family Separation in the Sunshine State: Preparing for the Traumatic Impact and Economic Costs of Immigrant Parent Deportation on Florida's Child Welfare System

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## Abstract

Family separation as a result of parental deportation of immigrants living in the USA triggers both child and family trauma and economic impact to the state. A child's separation from their parents is an adverse childhood experience that can induce depression, anxiety, and aggression and could create long-lasting negative impacts and reduce their likelihood of succeeding socially, academically, and economically. The implications of the influx of parents into the child welfare system for welfare authorities are discussed, highlighting Florida as an example. With respect to the economic repercussions in Florida, the projection of massive deportations due to federal immigration policies could overburden the child welfare system with an influx of children of deportees and concurrently encumber the state's budget. Information regarding safeguards for families and the rights of parents and children under US law and international human rights covenants is provided. It is crucial for the child welfare system to re-evaluate protocols to reduce the psychological impacts on affected families, assure parental rights, and to secure the necessary resources to alleviate the anticipated economic burden. Recommendations and action steps for responding to separated families and immigrant children entering the child welfare system are offered.

**Keywords** Immigration · Deportation · Family separation · Foster care · Child welfare

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This paper does not provide legal advice; any questions or concerns regarding an individual's case of detention, deportation, or the transfer of guardianship should be discussed with a lawyer knowledgeable about immigration and child welfare services.

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## Introduction

Several decades of aggressive immigration policies aimed at removing undocumented immigrants from the USA have affected millions of children and families (Zayas et al. 2017). Most recently, executive actions implemented under the Trump administration call for the U.S. Homeland Security Administration's Immigration and Customs Enforcement (ICE) agency to expand and enhance immigration enforcement by hiring thousands more agents, expanding the groups prioritized for deportation, and as in previous policies, enlisting local law enforcement for help in making arrests (Artiga and Damico 2018; Lovato et al. 2018; Nakamura 2017).

Immigration enforcement in interior communities has increased in recent years (Lovato et al. 2018), and hundreds of immigrants have been detained at worksites and in their neighborhoods. As ICE removal policies have expanded to include individuals with noncriminal records, more immigrants with long histories of law-abiding behavior have been deported (Roche et al. 2018). In the first 4 months of 2017, ICE carried out approximately 10,800 noncriminal arrests, a 150% increase over the 4200 similar arrests in 2016 (Amuedo-Dorantes and Arenas-Arroyo 2019). Moreover, federal agents are now directed to "deport any undocumented immigrant, including parents of U.S. citizen children" as part of Executive Order No. 13768 (Finno-Valesquez et al. 2018, p. 28). Thus, many more children living in their communities are at risk of being separated from a parent or parents due to detention and deportation (Finno-Valesquez et al. 2018). In fact, because of such policy changes, the number of deportations of parents has increased, resulting in a rise in family separations (Buiano 2018; Wiltz 2017).

## Family Separation

"When parents are forcibly separated from their children and unable to physically minister to their children's needs, as is the case when parents are detained and deported without their children, they are involuntarily orphaning their children" (Zayas 2015, p. 5). Zayas (2015) goes on to coin the term "orphans by deportation" (p. 5). The separation and deportation of an undocumented parent living in the USA can have devastating impacts on children's emotional and psychological well-being, health, and academic progress (Artiga and Lyons 2018; Artiga and Ubri 2017; Koball et al. 2015; Lovato 2019). Several studies have found that children with at least one deported parent experienced extreme stress, depression, anxiety, aggression, behavior problems (Artiga and Lyons 2018; Zayas and Heffron 2016), and symptoms of post-traumatic stress disorder (PTSD) (American Immigration Council 2019; Rojas-Flores et al. 2016). Such outcomes may occur whether these children are U.S. citizens or are

themselves undocumented, because of the destabilizing impact on family life and individual security and well-being. Some experts contend that the harm to children has become collateral damage as stricter immigration laws and enforcement policies are carried out (Appleton 2018; McLeigh 2010).

The sheer number of children and variations in their immigration status add to the complexity and confusion of this situation. As many as 5.9 million U.S. children live with at least one undocumented parent (Lovato 2019) and an estimated three-fourths of these children are U.S. citizens (Rubio-Hernandez and Ayón 2016). Data indicate that "from one-fifth to one-fourth of deported adults were parents of U.S.-citizen children" (Danaher 2018, p. e4(2); Koball et al. 2015).

## Implications for Child Welfare Services

Given these circumstances, the likelihood that child welfare workers and other human services providers will engage with children who have been affected by a forced family separation is increasing (Lovato et al. 2018). Complicated questions arise about the involvement of the child welfare system in decisions about what happens to children whose parents are deported, including where children are placed should they remain in the USA and what reunification plans are in the child's best interest (Wessler 2011). Yet, information about the number of children entering care, their status, or their parent's disposition is limited because these data are not regularly collected at the federal or state levels (Administration on Children and Families 2015). Consequently, as the immigration crisis continues to affect thousands of families across the country, child welfare professionals are faced with difficult questions and decisions, for which there is no clear blueprint or course of action.

While they are key to this process, child welfare workers may be unfamiliar with immigration issues and the unique circumstances for immigrant parents. For example, parents may be unable to access services because of language barriers or their legal status, or to complete the steps required for reunification because they are detained or deported (Administration on Children and Families 2015). In this paper, we look more closely at the implications of the separation of immigrant parents and children for the child welfare system and issues confronted at the intersection of immigration and child welfare systems, highlighting Florida's experiences as an example.

In Florida, over 350,000 children living with an undocumented family member are at risk of separation (Mathema 2017). In addition to those children who reside with an undocumented family member, the Salvadoran, Honduran, Haitian, and other parents with Temporary Protective Status have 28,100 U.S.-born children living in Florida. On January 5, 2019, adult Florida residents living with temporary protected status (TPS) were expected to return to their home countries due to the federal

government's cancellation of their legal status, potentially leaving these children without a parent or guardian. At the end of February 2019, their legal status was extended until January 2020, still leaving families unsure of their future (Miroff 2019). As with the country overall, it is difficult to offer an estimate of the number of Florida children who might ultimately become dependents of the state and enter the child protection system. Neither the U.S. ICE nor the Administration for Children and Families (ACF) provides current national or state statistics about the number of children entering foster care due to the detention or deportation of a parent. Additionally, in the State of Florida, current coding procedures do not capture these cases (The Florida State Senate 2018), impeding agency adjustments to address the statewide impact.

## Purposes

This paper has four purposes. The first purpose is to provide an overview of the impacts of family separation for immigrant children and youth. The second purpose of the paper is to lay out the implications of the influx of parents into the child welfare system for welfare authorities, highlighting Florida as an example. The third purpose is to provide further information to social workers, child welfare officials, and other service providers about safeguards for families and the rights of parents and children under U.S. law and international human rights covenants. The last purpose of the paper is to offer recommendations and action steps for responding to separated families and immigrant children entering the child welfare system.

The paper is organized into the following four sections: (1) "Impacts of Immigrant Family Separation on Children, Youth, and Families"; (2) "Implications for the Child Welfare System: the Florida Case"; (3) "Safeguards and the Rights of Parents and Children"; and (4) "Next Steps for Child Welfare Services." This paper provides extensive information about administrative and ICE directives affecting child welfare services and five action steps that may be useful for child welfare professionals in their work with separated families.

## Impacts of Immigrant Family Separation on Children, Youth, and Families

In debates about immigration policies and enforcement, the experiences and needs of children may be overlooked or disregarded, yet children are profoundly affected (Artiga and Lyons 2018). Numerous studies have found that separation from a parent has negative impacts on children's physical and mental health, economic stability and status, and family relationships for years to come (American Immigration Council 2019; Bouza et al. 2018; Finno-Valesquez et al. 2018; Lovato et al. 2018). In a systematic review of the

peer-reviewed research literature, Lovato et al. (2018) summarized the impacts of immigrant family separation for the well-being of children and youth. Research published between 2000 and 2017 reported three areas of negative impact: mental health, psychosocial, and academic. The studies they reviewed found (a) significant effects on mental health and well-being, particularly depression, anxiety, and/or trauma; (b) psychosocial symptoms of distress, i.e., isolation from friends, strained relationships and conflict with parents and siblings, and angry outbursts; and (c) academic declines, i.e., poor grades and low school attendance after a parent's deportation, and dropping out of school to work to make up for lost income.

## Distress and Trauma

In their study of children and families that experienced workplace raids and enforcement sweeps at six sites across the USA, Chaudry et al. (2010) found that children of all ages exhibited signs of distress and fear, even months later. Likewise, Rojas-Flores et al. (2016) found that "citizen children of detained and deported parents experienced more psychological distress and trauma" (p. 358) than those whose parents were not detained or deported, showing symptoms such as crying, withdrawal, trouble sleeping and eating, and anxiety about the future. In other research, Lovato (2019) found that adolescents described trouble sleeping and eating, worry about parents, uncertainty about the future, fear, intense nervousness, depression, grief, a profound sense of loss, and intense feelings of dread along with somatic symptoms of stomach aches, migraines, and panic attacks. Gulbas and Zayas (2017) reported that nearly 30% of study adolescents had symptoms of intense distress, anxiety, and depression as a result of fears and worries about a parent's status or experiences of parent deportation.

Regardless of where it takes place, the forcible separation of a child from their parents is "one of the most profound traumas a child can experience" (Teicher 2018, p. 17). Children who witness a parent's arrest or who are separated by agents during an ICE interrogation may be especially vulnerable, exhibiting symptoms such as anxiety, aggression, and withdrawal (Chaudry et al. 2010; Finno-Valesquez et al. 2018; Rubio-Hernandez and Ayón 2016). Brabeck et al. (2014) noted that important neural pathways essential for learning are disrupted when important relationships are disturbed. Moreover, children may experience double or even triple trauma—witnessing the removal of the parent, the sudden loss of the caregiver, and the abrupt loss of the child's familiar home environment (Brabeck et al. 2014; McLeigh 2010). According to child development researchers, "children depend on their primary caretakers to successfully navigate stressful and traumatic events" (Bouza et al. 2018, p. 2), to cope with

and recover from immediate adversities (MacKenzie et al. 2017; Teicher 2018). Thus, the loss of the parent is especially significant because the child is suddenly without the important protector they depend on, their most basic source of security in the world (Lovato 2019), as they endure this major crisis in their life. Recognizing the significant impact of these events, Zayas and Heffron (2016) urged that greater attention should be devoted to children's complex challenges and psychosocial needs and the mental health services available to them in multiple settings.

### Long-Term Impacts

The immediate trauma of separation has caused alarm about the long-term impacts of immigrant family separation on brain structure and later functioning. Leading child development and healthcare researchers and professionals, responding to the large-scale separations that occurred at the U.S.–Mexico border in the summer of 2018, clearly identified the potential consequences of these actions. Bouza et al. (2018) responded that “the physiological and psychological toll of early life stress, including parental separation, changes how the body responds to stress in the long-term, disrupting higher-order cognitive and affective processes as well as negatively altering brain structures and functioning” (p. 1). Well-documented results include greater risk for many health and psychological problems—obesity, cancer, heart and lung disease, stroke, lower IQ, depression, anxiety, and PTSD.

The American Academy of Pediatrics (2018) emphasized that family separation is the type of highly stressful experience that “can disrupt the building of children's brain architecture. Prolonged exposure to serious stress – known as toxic stress – can lead to lifelong health consequences” (para 3). Danaher (2018) emphasized that “traumatic experiences like the loss of a loving caregiver can inflict toxic stress on a child, hindering healthy development and leading to changes in physiology that promote psychical and mental illness throughout the life course” (p. e4[2]).

### Fear of Loss

Adding another dimension is the finding that the *threat* of losing a parent can be traumatic, as children worry about *potential* family separations (Lovato 2019). Based on recent focus groups and interviews with pediatricians, Artiga and Ubri (2017) reported that immigrant families, including those authorized to be in the country, experienced high levels of fear and uncertainty about their status and ability to remain in the USA. Others found that Latino immigrant parents reported their children experienced prevalent, constant fears of parental deportation and separation, resulting in fear, worry, and a state of

hypervigilance about parents' whereabouts and potential encounters with authorities (Lovato 2019; Rubio-Hernandez and Ayón 2016). Gulbas and Zayas (2017) found that youth were fearful that if their parents were removed, they would have to go to foster homes. In the long run, even if children and parents are reunited, the fear that separation will occur again may result in a stress response that could have long-term epigenetic effects and put individuals at greater risk for obesity, diabetes, and cardiovascular disease in adulthood that could be passed down to later generations (Teicher 2018).

With the threat of deportation, immigrant families often retreat from employment and from obtaining needed services. Economic insecurity, hardship, and poverty, already prevalent among immigrant families, were heightened as families face high levels of unemployment, difficulties obtaining work, lower wages, and exploitative employment practices (Administration on Children and Families 2015; Rubio-Hernandez and Ayón 2016). Worries about finances and the lack of employment were found to contribute to children's depression (Rubio-Hernandez and Ayón 2016).

### Summary

The research literature consistently reports that, when parents are detained and deported, families are disrupted and children face loss, economic instability, and the trauma of separation (Dreby 2015; Lovato et al. 2018). Children and youth of all ages are vulnerable, although the impacts may not be apparent until adulthood (Bouza et al. 2018). In addition, trauma is cumulative, such that children who have already experienced trauma are at greater risk of negative outcomes (Bouza et al. 2018)—adding to the burdens of traumas they experienced on the migration journey.

While family separation clearly has negative outcomes, Gulbas and Zayas (2017) point to the need to better understand the dynamics and nuances of family separation, suggesting that, at least in the case of citizen children in mixed-status families, there is not one definitive profile of stress, emotional difficulties, and academic performance. The experiences and outcomes “depend heavily on many factors”, especially on resources available to children and their families to support and nurture well-being in their daily lives (p. 65). And, while resources may include tangible financial and material assistance, Gulbas and Zayas (2017) found that the “most fundamental resource...from the perspective of citizen children...was family cohesion” (p. 66). These findings may serve as a springboard for considering appropriate interventions that strengthen protective factors in families and could be important considerations in shaping the child welfare system's response.

## Implications for the Child Welfare System: the Florida Case

In this section, we take a closer look at the implications of the separation of parents and children and subsequent parent detention and deportation for the child welfare system. We highlight Florida as a case example, pointing to the rising economic and social costs of care and the role of child welfare services in safeguarding the rights of children and parents.

Once a parent is detained or deported, their children are likely to be placed in foster care (Child Welfare Information Gateway 2017). Although it is very difficult to determine the exact extent of the need for substitute care, national estimates suggest that between 3.9 million (in 2014) (Passel and Cohn 2016) and 5.1 million (2009–2013 survey period) (Capps et al. 2016) children lived with at least one undocumented parent and were therefore vulnerable to foster care placement in the absence of other care.

Thus, the deportation of immigrant parents may result in an influx of children to any state's foster care system and corresponding increases in costs of care for the state. Florida is susceptible to rapid increases in the number of children in custodial care that could overwhelm the foster care system. We identified four factors that could affect the forecast for the 2019 needs of children for out-of-home care in Florida.

### The Forecast for Foster Care in Florida

First are the large numbers of Florida children living with an undocumented parent. According to data from the 2010–2014 American Community Survey, 357,638 Florida children lived with an undocumented family member (Mathema 2017). A second, related factor is that this number could expand as TPS parents are deported. Beginning January 2019, 50,000 adult Florida residents with TPS are expected to return to their home countries because the federal government canceled their legal status (Mathema 2017; Castillo 2018). These TPS recipients collectively have almost 28,100 U.S.-born children who may be without an appointed guardian and appropriate guardianship paperwork completed. The children could fall into Florida's foster care system due to parental expulsion from the USA.

Third, ICE increased the number of workplace investigations, raids, and arrests of undocumented workers across the country in 2018 and early 2019, and ICE actions in all categories "surged by 300 to 750 percent over the previous fiscal year" (U.S. Immigration and Customs Enforcement 2018). Workplace investigations increased from around 1700 in 2017 to nearly 7000 in 2018,<sup>1</sup> while audits of employers' I-9

documentation jumped from 1300 to 6000<sup>2</sup> in that period. ICE made 311 worksite-related arrests in 2017 and 2304 in 2018.

In other parts of the country, employees of agricultural industries have been hard-hit; between April and August of 2018, the six largest sweeps took place in rural communities. Hundreds of workers were detained from rural and small-town farms and packing facilities in 2018 (Dwyer 2018; Fang 2018; Sacchetti 2018; for summaries, see AILA 2019; Mueller 2018). In May and June 2018, ICE carried out three major raids in other states. In Tennessee, a raid left 160 children without parental presence (Burke 2018). In Ohio, almost 300 undocumented workers were detained after two of the biggest workplace raids in U.S. history, leaving behind hundreds of children with no custodial support (Schmidt 2018; Tuggle et al. 2018). While major worksite raids have not taken place in Florida, the State depends on immigrants for its large agricultural industry and an estimated 77% of agricultural workers are foreign-born (New American Economy 2019). While many have guest-visa status, an undetermined number are unauthorized (Pew Research Center 2019). As the examples suggest, when parents are detained, children will be left behind who will need some kind of custodial care.

Fourth, other changes in federal policies are resulting in administrative arrests of thousands of undocumented individuals and, again, the resulting increase in the number of children left without parental care (Passel and Cohn 2016). Two executive orders in January 2017 and corresponding Department of Homeland Security memos permit the apprehension of individuals at airports, bus stations, homes, on the streets, and during roving [traffic] stops (Lee 2017). This potential influx of children into foster care, combined with the upsurge of children presently in the child welfare system due to the State's opioid crisis (Blustain 2018), has the potential to overload Florida's capacity to provide care and simultaneously cripple the State's budget.

### Estimating the Number of Children at Risk of Foster Care

One challenge for any state is determining how many immigrant children of undocumented parents may enter the child welfare system, particularly as annual statistics are not regularly available. One step is to identify the number of children living with an undocumented parent in a given year and develop estimates from there. The Pew Research Center reported that in 2014, about 3.9 million U.S. schoolchildren had at least one parent who was undocumented, and 3.2 million, or 82%, of these children were U.S. citizens (Passel and Cohn 2016) eligible to remain in the USA.

The "Shattered Families" national report (Wessler 2011) estimated that in 2011, 5100 children were in foster care in

<sup>1</sup> 1691 in 2017 to 6848 in 2018

<sup>2</sup> 1360 in 2017 to 5981

the USA due to their parent's detention or deportation. This comprised 1.25% of all children in the foster care system in the USA. Moreover, Wessler's study estimated that by 2016, an additional 15,000 children nationwide would be placed in foster care for the same reason. Using the 1.25% reported in "Shattered Families" to generate an estimate of the children that could be experiencing this situation, we estimate that of the 23,030 children in foster care in Florida in December of 2016 (Florida Department of Children and Families 2018), 288 could have been placed there due to the detention or deportation of a parent (AdoptUSKids n.d.). However, under the Trump administration's executive orders expanding deportation priorities, the number of detention and deportation cases is expected to increase between 2018 and 2019 (Trump 2017), thereby potentially increasing the number of Florida children entering foster care due to parent detention and/or deportation.

It is important to note that the figures likely underrepresent the number of children affected. ICE reported that in 2016, 11,543 parents who were deported had U.S. citizen minors (U.S. Immigration and Customs Enforcement 2017a, b). However, these data fail to identify the number of U.S. citizen children each parent has and disregard children without status who are left behind when a parent is deported. Thus, data representing only parents does not accurately represent the number of children at risk of being placed in foster care for families who have multiple children.

As mentioned above, in Florida, between 2010 and 2014, there were 357,638 children living with at least one undocumented family member (Mathema 2017). These data do not reflect the increased representation of adults and children arriving from Central America and seeking asylum since 2015, nor parents who will soon lose their temporary protected status, leaving approximately 28,100 U.S. citizen children in Florida without caregivers.

### The Economic Costs of Foster Care to the State of Florida

The expected increase in parent detention and deportations puts more immigrant children at risk of entering Florida's child welfare system, at increasing costs to the State. There are three immigration enforcement factors to consider in determining costs to Florida. As discussed above, the expansion and increase in deportations, anticipated elimination of TPS, and increase in workplace investigations and arrests all set the stage for an influx of children into the child welfare system.

More than 350,000 children in Florida could face family separation as a result of immigration enforcement factors (Mathema 2017). Although the actual costs vary depending on the age of the child, on average, foster care can cost the State of Florida approximately \$5495 a year per child (\$458–\$550 per month) (Florida Department of Children and Families n.d.-b). This amount does not include healthcare

costs, which the State is legally required to cover as Federal child welfare funds cannot be used to pay for Medicaid (Child Welfare Information Gateway 2015), nor does it include costs for children with special needs, administrative overhead, legal fees, interpreters, or translators. Moreover, family separation costs the public welfare system hundreds of thousands of dollars (Pecora et al. 2003; Stevens and Images 2018).

The resources needed to care for these children will require a drastic increase in the annual state budget and extensive efforts to find and prepare safe, loving foster homes. For example, the intake of 500 children of immigrant parents into foster care, at \$5495 annually per child (room/board), would cost Florida approximately \$2,700,000 annually (500 children  $\times$  \$5495 = \$2,747,500). Federal funds for foster care are available to states through the Social Security Act, authorized under Title IV-E and IV-B (The Public Health and Welfare 2018). States receive federal reimbursement for all eligible costs associated with providing foster care. Foster care programs are implemented by the Children's Bureau, which provides state support for room and board payments (Children's Bureau 2018). It is important to emphasize that in Florida, funds received are capped for foster care by the federal government (Florida Department of Children and Families 2015).

Along with these economic costs, the reunification process for children placed in foster care because of a parent's detention or deportation holds specific challenges. For example, difficulty with communication across language barriers and country borders may result in children's extended time within the foster care system. Therefore, agencies should anticipate a greater demand on the budget to cover the cost of additional services and longer stays in the system.

### Societal Costs of Long-Term Foster Care

In addition to the economic costs of foster care, other long-term costs of care to the individual and to society are likely to emerge. Years of previous research on foster care confirm that foster children are at risk of continued adversities into adulthood. For example, they are less likely to complete high school than their nonfoster peers, dropping out at three times the rate of nonfoster care peers (Legal Center for Foster Care and Education 2018). An estimated 30–50% of youth leave the foster care system without a high school diploma or high school equivalent (Wiltz 2017). Although three-fourths of foster youth want to go to college, they are less likely to do so than other youth and less likely to complete a bachelor's within 6 years than other students (14% compared to 31% for 2009) (Casey Family Programs 2018). One longitudinal study of foster alumni in the Midwest found that only 4.4% obtained a 2-year degree and 2.5% a 4-year degree by age 26 (Casey Family Programs 2018).

The long-term economic impacts of foster care on an individual's educational outcomes and later employment also

affect future opportunities, hindering lifetime earnings and economic contributions to society. Without a high school diploma, individual annual income is decreased by \$10,000 on average as compared to someone who graduates from high school (U.S. Census Bureau 2017). Over a lifetime, this can result in reduced earnings of \$200,000–\$272,000 and \$20,000–\$30,000 fewer taxes paid (Julian 2012). Lack of social contributions is estimated to cost society \$300,000 over the lifetime of a child who “ages out” of foster care (Belfield 2014). Other research has found that foster youth are more likely to face other adverse circumstances. For example, youth who have aged out of foster care “experience higher rates of homelessness, teen pregnancy, criminal justice involvement, child welfare involvement and use of public assistance” (Casey Family Programs 2018, p. 5).

The potential implications of foster care placement are significant. Florida, like other states, faces economic, societal, and individual costs in the short and long term. Foster care placement, long-term care, transition from foster care to independent living, and potential long-term costs for other supportive services can all be expected when children from immigrant families enter and remain in state care for long periods of time. However, when child welfare administrators and social work professionals understand the full extent of the potential challenges to come, they will be better prepared to ensure that parents have their rights protected and participate in a permanency plan that reunifies them with their children.

## Safeguards and the Rights of Parents and Children

With the potential influx of children of immigrants entering foster care, an understanding of immigration processes and directives will help child welfare agencies support the long and arduous family reunification process. The American Bar Association provides the following national guidance in cases that involve a parent in detention that are particularly informative for state agencies developing permanency plans:

1. Immigration status [is] not relevant to [the] primary caretaker determination (Fata et al. 2013).
2. “Parents have fundamental liberty and privacy interests in the care and custody of their children” (Fata et al. 2013, p. 197).
3. “No state’s best-interests-of-the child statute lists immigration status as a factor to be considered” (Fata et al. 2013, p. 216).
4. “Immigrants are not only able to provide a stable home for their children, but also instill in them positive values” (Fata et al. 2013, p. 224).

This guidance serves as a counterargument to courts that consider immigration status in determining whether undocumented parents can provide a stable environment. Furthermore, the Adoption and Safe Families Act (ASFA) prioritizes family reunification and “no part of Title IV-E prohibits reunification with parents who are undocumented or who live outside the U.S.” (American Bar Association n.d., para 3).

## The Reunification Goal

Reunification, generally defined as the process of returning children in temporary out-of-home care to their families of origin, is the goal for parents and the foster care system (Florida State Senate 2018). As such, parents have the right to be involved in the process of achieving reunification with their children, *regardless of whether they are detained or have been deported*.

Under the law, parents whose children have been placed in foster care have the right to (1) receive notification of custody proceedings; (2) attend those proceedings, be it in person or via technology; (3) receive copies of related court documents; and (4) counsel (American Immigration Council 2019). Parents can also request that their children be placed with relatives, and states are required to “locate and notify relatives...of children who are removed from their homes within 30 days” (Child Welfare Information Gateway 2016, p. 3). This outcome ensures that the parent will have a trusted family member involved in the process, such as grandparents and other extended family members who care for children left behind (Wiltz 2018). In fact, of all children in the USA being raised by an extended family member, one in five live in an immigrant-headed household (and with rising deportations, the number of immigrant “grandfamilies” is also expected to increase) (Generations United 2018; Wiltz 2018, para 2). Some states have begun to address guardian laws and assist immigrant families in designating legal guardians in case parents are arrested on immigration charges (Wiltz 2018).

However, child welfare agencies must also realize the challenges an immigrant parent faces when trying to find family members to assume temporary custody of their child(ren). Due to heightened fear stemming from harsher immigration policies, family members may hesitate to take children in if they themselves are without documentation or are in the process of adjusting their status (Farzan and Holstege 2017; Wiltz 2018). The September 2018 arrest of 41 extended family members seeking to shelter children when parents were recently deported is a case in point (Kopan 2018).

In the following sections, we review the key directives regarding immigrant parents’ rights. For more information about child welfare policies and immigration enforcement, see the Administration on Children and Families (2015), an extensive Information Memorandum that includes summaries

of issues and links to many other useful sources, and the American Bar Association's (n.d.) summary of key guidelines.

### Immigration and Customs Enforcement Directive for Parental Rights

When a parent is detained or deported, they still retain parental rights, which agencies must comply with (American Immigration Council 2019). In 2013, ICE released a directive addressing parental interests that was updated in 2017 and renamed Detention and Removal of Alien Parents or Legal Guardians (U.S. Immigration and Customs Enforcement 2017a, b). Under this directive, when a parent's presence is required in court proceedings "in order for him or her to maintain, or regain custody," the parent, their lawyer, or representative must give reasonable notice of hearings and produce evidence of hearings to ICE (U.S. Immigration and Customs Enforcement 2017a, b, section 5.3). ICE can then consider distance, undue burden, and security and public safety concerns when deciding whether to arrange in-person appearances of the detained parent. When visits are impracticable, technology should be utilized to ensure participation. The directive also specifies that if an immigrant parent is detained, ICE itself should facilitate a "means of regular visitation between the parent and minor child(ren)" (U.S. Immigration and Customs Enforcement 2017a, b, section 5.4).

Moreover, the directive addresses alternative childcare arrangements for parents who have maintained their parental rights and have been ordered to be removed. It allows parents to arrange guardianship or obtain travel documents for their child in the weeks prior to their deportation. In that time, parents can execute a power of attorney, appoint guardians, or make any other preparations (refer to [www.famsepf.org](http://www.famsepf.org) for document examples). To ensure that these rights are protected, ICE also specifies the designation of a child welfare coordinator who is responsible for serving as the "primary point of contact and subject matter expert for all ICE personnel regarding child welfare issues", including efforts to make arrangements for guardianship, visitation, parent placement, trips to family court, travel documents for minor children, and facilitation of contact with counsel, consular officers, and others (U.S. Immigration and Customs Enforcement 2017a, b, section 4.3).

### Administration for Children and Families Memorandum

To address the obstacles of parents in detention who have children in foster care, the Administration on Children and Families (2015) released the Information Memorandum with the following purpose:

To encourage child welfare agencies and others that work with families with a child involved in the child welfare system whose parent(s) may be at risk of, or are, being detained or removed to engage in case planning activities that ensure the safety, permanency and well-being of all children in foster care. (p. 1)

The memorandum is critical as it brings forth the key steps to ensure parental rights. Child welfare agencies are urged to improve case planning practice in the following ways: (1) work directly with ICE and collaborate with foreign consulates to facilitate parental interests and legal guardians or dependency proceedings and decisions about the best interests of the child; (2) consider detention a compelling reason to warrant an exception to termination proceedings being initiated; (3) institute "supportive policies and practices in working with immigrant children and families" (e.g., specialized immigration legal services, specialized office for promoting best practices with immigrant children, youth, and families); (4) partner with immigrant advocacy organizations to provide services to meet the needs of families and children; and (5) train child welfare caseworkers on "culturally and linguistically appropriate services; how immigration status affects children, families, and youth; and the complexities of immigration and enforcement" (Administration on Children and Families 2015, pp. 2, 5–6).

### Summary

In alignment with the ICE Directive and ACF Memorandum, child welfare representatives must have an active role to guarantee parental participation and safeguard parental rights. The representatives can direct parents to call, email, or directly inform detention officers of their situation and their intention to take advantage of the ICE directive. This is crucial, especially considering that the first shelter hearing for their child occurs within 24 hours after the child is removed from their home. This is when a judge determines if a child can return home, should stay with another relative or family friend, or remain within the foster care system (American Bar Association 2008).

If a child has been prepared by their parent for the possibility of removal from their home, the child can inform the judge, caseworker, or child protective investigator (CPI) of a relative or family friend who will care for them (ABA 2008). If possible, the child can present the documents recommended from the safety plan and the power of attorney (refer to [www.famsepf.org](http://www.famsepf.org) for document examples).

### Human Rights Considerations

Although countries have considerable latitude in setting their immigration policies, international human rights law also

mandates respect for migrants' human rights (International Justice Resource Center 2018, June).<sup>3</sup> Two principles of human rights are of particular interest here, the best interests of the child and respect for family life, which are specifically addressed in the Convention of the Rights of the Child (CRC) that was ratified by the United Nations General Assembly in 1989 (United Nations Office of the High Commissioner for Human Rights 1990). Article 3 mandates authorities to prioritize "the best interests of the child in actions that affect minors" (Brabeck et al. 2014, p. 502). Although the USA has not ratified the CRC, it has signed other human rights commitments that require protection of the best interests of the child, and this same principle has guided U.S. law for more than 125 years (Inter-American Commission on Human Rights [IACHR] 2015). In all 50 states, "statutes...incorporate this principle, including: adoption, dependency proceedings, foster care, divorce, custody, criminal law, education, and labor, among others" (IACHR 2015, pp. 33–34). However, Estin (2018) notes that at present, children's best interests are not weighed or seriously considered in immigration proceedings.

International human rights law also recognizes rights to a family life and State protection for the family (International Justice Resource Center [IJRC] 2018). The International Covenant on Civil and Political Rights, ratified by the USA in 1992, recognizes the family as the fundamental group of society and entitled to protection by the State. Governments are prohibited from interfering with the family and required to protect children and their connections to their family regardless of their race, sex, religion, color, property, or national or social origin (Estin 2018; United Nations Office of the High Commissioner for Human Rights 1990). In a case analysis, the Organization of American States' Inter-American Commission on Human Rights (IACHR) "held that the [U.S.] government is legally obligated to take into account the migrant's family ties and the impact on family members be taken into account in deciding whether to order the migrant's deportation" (IJRC 2018). In addition, Article 7 of the CRC identifies the right of the child to be cared for by her/his parents (United Nations Office of the High Commissioner for Human Rights 1990).

Child and immigration advocacy organizations have urged the U.S. Congress to adopt reforms that would protect children's fundamental rights and keep families together (Brabeck et al. 2014). They advocate a rethinking of immigration policies with greater attention to the lasting impacts of a parent's

expulsion (and in the case of parent and child together, their permanent exile) on children's development and well-being. According to Brabeck et al. (2014), the advocacy organizations compellingly recommend that the U.S. adopt

policies and practices that are designed with [children's] best interests at heart, and that ensure them a life of dignity and well-being as promised in international laws and covenants, by domestic values and commitments, and because of their status as citizens of the United States. (p. 503)

The best-interests approach asks decision-makers to prioritize "the child's need for a strong and continuous relationship with a parent (or one performing the role of parent)" (Appleton 2018, p. 616).

One consideration in protecting the rights of children separated from their parents is coordinating their care between the federal agencies and state child welfare systems to ensure that a best-interests approach is implemented in advocacy for children of immigrant families (Estin 2018). Child protection is the business of state agencies and courts, but state child welfare authorities typically do not have experience in handling deportation cases; federal agencies responsible for immigration enforcement and the care and placement of unaccompanied children have little expertise in child welfare (Estin 2018). Greater cooperation and coordination between the child welfare system and immigration system is critical to protecting the rights of children and families (Estin 2018; Hidalgo 2013).

### The Role of Child Welfare Agencies and the Difficulties They Face

Federal law explicitly requires a case plan for all children placed in foster care (Child Welfare Information Gateway 2014) that outlines what needs to occur for the child to safely return home or achieve permanency by other means (Florida Coalition for Children 2014). All steps must be taken to ensure that the parent's right to receive assistance during the process of developing a case plan is guaranteed (The Florida State Senate 2018). Detention and deportation create numerous barriers for state child welfare systems, but ensuring that parental rights are protected is crucial, given the short time for completing the plan. In Florida, the time frame is even shorter than the federal mandate, with initiation of a petition to terminate parental rights occurring when a child has been out of a parent's care for only 12 of the 22 months instead of 15 of 22 federally (The Florida State Senate 2018). However, it is important to note that the requirement to terminate parental rights in Florida after 12 months does not, at the state's option, apply if a child is cared for by a relative, if the termination is not in the best interests of the child, or if the

<sup>3</sup> The Inter-American Commission on Human Rights (2015) summarizes 10 principles of human rights: "International standards protect the right to equality and non-discrimination, the principle of the best interests of the child, the right to personal liberty, humane treatment during detention, due process and access to justice, consular notification, protection of the family and family life, seek and receive asylum, principle of *non-refoulement*, and the prohibition on collective expulsions" (p. 10).

State has not provided adequate services for the family (The Florida State Senate 2018).

### Barriers to Reunification

Under the present structure, numerous barriers to reunification exist when a parent is detained or deported, making it extremely difficult to complete child welfare plans for reunification. The isolated location of detention centers and the lack of support for communication or visitation work counter to child protective services (CPS) requirements such as visiting with children (Hidalgo 2013). The agency may lack systematic policies to reunify families when parents are detained or deported, such as working with the foreign consulate when they take custody of a citizen child of a deported noncitizen (Wessler 2011). In addition, CPS may not hire or have enough multilingual and multicultural staff to communicate with immigrant and refugee families (Hidalgo 2013). The biases of child welfare professionals may stand in the way of meeting the legal mandate to reunite families (Wessler 2011). Caseworkers may believe that the child is better off in the USA, even in foster care, and even if their parents have never been determined to be unfit (Hidalgo 2013). Caseworkers have at times avoided placing the child with other undocumented families, even in a safe, loving home consistent with the child's cultural background (Administration on Children and Families 2015; Wessler 2011). Caseworkers may assume parent criminality and lack of interest in reunification because of a lengthy ICE detention, creating a "negative dynamic that undermines" rights in dependency proceedings (Hidalgo 2013, p. 41). Continuous and periodic training of child protection and migration officials on the rights of children, migrants, and refugees is one step toward protecting the rights of children and families (United Nations 2017).

In addition to these structural forces, a "script of silence" among undocumented immigrant families may prevent families from preparing for the possibility of parent deportation. Fearing discovery, family members are expected not to discuss or reveal any information about the family's immigration status, even leading invisible lives as much as possible to conceal their legal status (Zayas 2015). Gulbas and Zayas (2017) reported that "not a single participant in our study described having a plan in place that would help guide and assist children about what to do in the event that a parent was arrested and detained" (p. 60). As we have seen throughout this paper, the overwhelming evidence is that families need to be prepared for a possible separation from their children. In their absence, others may also need to step in to protect the best interests of the child.

Clearly, there are many challenges ahead for Florida's child welfare services agency staff. A 2015 Migration Policy Institute study focused on five sites nationally, including Florida, identified numerous difficulties child welfare

agencies encountered when trying to facilitate parental participation in child welfare proceedings. Key challenges included "locating parents in detention, communicating with them, and ensuring that they could attend custody hearings" (Koball et al. 2015, p. 10). The findings for Florida revealed that even when detained parents proactively followed child welfare agencies' required steps toward reunification, they were still deported before being reunified with their children because the steps taken were not coordinated with ICE. Koball's study also explored the challenges of deportation such as cross-border communication and the involvement of foreign consulates. This again demonstrates the many layers of challenges that various agencies will need to tackle to effectively reunify families.

### The Importance of Interagency Communication

It must be re-emphasized that parental rights, meant to keep the parent involved at every stage of the juvenile dependency court, are difficult for parents to carry out in detention or after deportation. This could be made easier by child welfare agencies creating stronger lines of communication between ICE field office directors, child welfare coordinators, and field points of contact, whose responsibilities should overlap with the responsibilities of child welfare agency workers (U.S. Immigration and Customs Enforcement 2017a, b). At a minimum, it is essential to facilitate parent contact with the caseworker or the CPI. It is also strongly recommended that parents retain a lawyer to assist with these proceedings so that their interests are not dismissed. Agency staff will need to be trained to work with families, children, or other representatives to inquire if a safety plans or power of attorney exists, and to ensure that these documents are available for the judge from the onset of the proceedings. Child protective investigators, social workers, and caseworkers must also be trained to be proactive about these issues and advocate for parents to remain involved and informed of their rights. While child welfare professionals are not expected to be experts on immigration issues, they can familiarize themselves with immigration terminology, new policies, best practices, and available resources.

Assuring that parental rights are safeguarded is especially challenging when working with parents who are detained or in a foreign country. Child welfare agencies will need to creatively resolve conflicts that arise when child welfare systems intersect with immigration systems.

### Next Steps for Child Welfare Services

It is critical to engage the state legislature, child welfare agencies, and the broader community in conversations to prepare for the responsibility of caring for children of immigrants and to respond to additional challenges facing the state.

Developing steps to be taken means looking for best practices directly related to the foster care of children of immigrants, as well as general national and regional best practices already implemented in child welfare services. Unless actions are taken to prevent family separation when a parent is detained, little can be done to reduce the costs of state guardianship of the children. However, steps to develop protocols to achieve family reunification not only follow reunification mandates and support families but can also be taken without great expense. The ACF Memorandum (Administration on Children and Families 2015) urges cooperation between welfare agencies and ICE and recognizes the obstacles that detention creates in being able to develop and follow a plan for the parent to ultimately regain custody. Immigrants face long periods of detention, often in remote centers far from their families, prior to having their cases adjudicated and subsequently removed if there is a negative finding (American Civil Liberties Union 2014). Of heightened concern is when parents are quickly deported, cutting off the fluid and required communication between parents and child welfare agencies. Therefore, child welfare agencies must act quickly to ensure that communication between parents and children is enacted for reunification planning to be brought to fruition.

As family reunification is a priority goal for children whenever possible, regardless of immigration status, child welfare agencies should work to ensure that families are given the necessary resources. Understanding the urgency of this issue, other states have created programs and partnerships and enacted legislation to address the issue of separation of families and the resulting consequences. For example, in California, the Reuniting Immigrant Families Act added “immigration-related issues to the list of compelling reasons for which the court can extend the period of family reunification services” (Immigrant Legal Resource Center 2014). In contrast, Florida law does not explicitly recognize immigration-related issues as a compelling reason for termination when filing a petition to terminate parental rights. Florida legislators should consider enacting a law to explicitly recognize immigration status and allow for extended reunification services.

Aspects of federally introduced legislation, such as those found in the HELP Separated Children Act and Help Separated Families Act, also provide guidance in dealing with some of the forthcoming challenges. Although this legislation has yet to be enacted, child welfare agencies can still obtain useful information about how to assist detained or deported parents and remain involved in the reunification plan (Lincroft 2013). Additionally, child welfare agencies will benefit from clear orientations highlighting the intersection of both immigration and child welfare systems that may not always be complementary. The child welfare system is key to protecting immigrant families’ rights and offering information, interventions, and resources that may protect children from the negative impacts of trauma. To that avail, the National Association

of Social Workers (NASW), as well as the state-level associations, could offer a webinar series and additional or updated resources on immigration and the child welfare system including best practices in supporting immigrant children and their families while working within the child welfare system. Currently, NASW (2019) resources on the topic include a child immigrant crisis media toolkit with limited additional resources for further study. The social work profession must be at the forefront of this advocacy through developing best practices and offering guidance to the already overly burdened child welfare system. In a social justice brief focused on unaccompanied minors, NASW (2014) stated that

as a profession, social workers are currently and should continue to be on the front line in fighting for the best interest of each child and ensuring that their legal rights are protected at every stage of the migration/refugee process. (p. 7)

This level of advocacy is still very much needed.

Recommended action steps that serve to prepare Florida’s child welfare system for the outcomes of federal immigration policies may also apply to other states. The objective is to ensure that families move toward reunification and parental rights are protected in the process. By working together on local and state levels, we can assure that children of undocumented parents will not lose their family bonds. The action steps included in Table 1 incorporate best practices used at the federal level and apply them to state systems to strengthen the capacity of child welfare staff to complete their mandate of permitting parental controls over their children’s well-being.

## Conclusion

The detention or deportation of parents has rippling emotional and economic effects on children, parents, the state, and society. This article outlined the challenges in preparing for the traumatic fallout and economic crisis that could impact Florida, and is likely reflected in the experiences of other states. It also provides steps for child welfare agencies to help break down some of the barriers confronting detained or deported parents when working toward reunification with their children. Family reunification is typically in the best interest of the child, state, and society.

Under the current administration’s immigration enforcement policies, the heightened possibility that more children will enter the foster care system must be considered in the context of long-term effects on children. As discussed above, researchers have shown that children who face parental detention or deportation, as well as foster care placement, risk significant emotional trauma. To mitigate this trauma, the

**Table 1** Action steps

|  |   |
|--|---|
| Safeguard the right of parental control  | <ol style="list-style-type: none"> <li>1. Create a memorandum of understanding (MOU) between the Department of Human Services (DHS) and ICE to ensure that detained parents are present (even via video conference) during Department of Children and Families hearings as outlined in State statutes.</li> <li>a. Create a procedure or protocol to establish the most reliable means of contact and information with parents as they move through the system.</li> <li>2. Consulates have the responsibility to serve to support the rights of their citizens in the USA. Consulates should be engaged in the process. The creation of a MOU could formalize a protocol within this process of safeguarding parental rights.</li> <li>3. Request that the child intake protocol establishes whether parents who are detained or deported have a prepared power of attorney or have an expressed plan to present to the CPI or judge at the shelter hearing.</li> <li>4. Honor the existing prioritization of family reunification with parents as the permanency plan for all children, regardless of the immigration, detention, or deportation status of the parent.</li> <li>5. Partner with school counselors to encourage immigrant families to develop a power of attorney and engage school guidance counselors to support students in foster care whose parent has been detained or deported (refer to <a href="http://www.famsepf.org">www.famsepf.org</a> for document examples).</li> </ol>  |
| Expedite family reunification  | <ol style="list-style-type: none"> <li>1. Create an intake code for the cases of children who enter foster care due to parental detention or deportation in order to track this subgroup of children, ensure, and facilitate the implementation of protocols unique to these cases.</li> <li>2. Create a task force charged with identifying policy changes to support protocols and systems to facilitate family reunification for children of immigrant parents.</li> </ol>   |
| Ensure and facilitate communication between authorities, parents, and children | <ol style="list-style-type: none"> <li>1. Create a centralized data bank and designated staff member in each of Florida's Department of Children and Families (DCF) regions who will serve as the communications liaison. This position would be similar to ICE's child welfare coordinator and field point of contact staff positions (U.S. Immigration and Customs Enforcement 2017b). They will serve the central liaison to manage communication between the caseworker, the child, and the immigrant parent to ensure that permanency plans will be followed and reunification achieved, even when parents have been detained or deported. <ol style="list-style-type: none"> <li>a. Train communications liaisons to use the online detainee locator system to stay abreast of parental whereabouts within the detention system to assure continuous communication.</li> <li>b. Institute a system whereby the communications liaison is responsible for contacting pertinent foreign consulates whenever the child of an immigrant parent, who has been detained or deported, enters foster care.</li> <li>c. Orient consulate representatives of available family resources to assist with their adherence to permanency plans.</li> <li>d. Ensure that consulates assist in the preparation of legal passports for a child's potential travel for reunification in their parent's home country.</li> </ol> </li> <li>2. Require that foster parents assist children in maintaining contact with a parent who is in detention or in the parent's home country as supported by the Adoption and Safe Families Act Memorandum. <ol style="list-style-type: none"> <li>a. Set up scheduled conferences as part of permanency plans.</li> </ol> </li> </ol> |
| Cultural competency  | <ol style="list-style-type: none"> <li>1. Prioritize the expansion of multilingual child welfare agency staff and foster parents.</li> <li>2. Establish community liaisons (similar to these through DCF's Refugee Services Program), including immigrant advocacy organizations, to reduce the strain on child welfare agencies and strengthen support for foster parents (Circuit 10 n.d.). <ol style="list-style-type: none"> <li>a. Provide ongoing, mandated trainings and workshops for child welfare staff and foster parents for cultural competency and trauma-informed care. Evaluate trainings and develop a follow-up procedure to evaluate staff and foster parent.</li> </ol> </li> </ol>   |

suggested action steps should be taken to reunify families that have been separated solely because of federal immigration policies. Here we recommend that the Florida legislature and child welfare agencies prepare for the economic costs of the potential influx of children needing custodial care by guaranteeing that sufficient resources are included in the budgets.

Finally, to ensure that parental rights are protected and adhere to the safeguards developed by the U.S. Immigration and Customs Enforcement agency (2017a, b) and supported

by state and federal policies, copies of all relevant policies and directives need to be distributed to all contracted child welfare agencies. In addition, pertinent trainings must be offered to assure staff compliance. Proactive steps, as outlined in the action steps, will help to ensure Florida's capacity to successfully receive and provide custodial care, and ultimately reunify families impacted by federal immigration policies. These steps can be applied or adapted to other states and are consistent with Article 7 of the Convention on the Rights of the Child. Therefore, State agencies, community organizations,

immigrant advocacy groups, and legal services working together can fulfill Florida's DCF Mission "...to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency" (Florida Department of Children n.d.a). Other states may find the case example of Florida useful when examining their child welfare policies and procedures.

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