

# KINSHIP CARE AND ASSISTED GUARDIANSHIP

## ACTION

- Cosponsor and support the Kinship Caregiver Support Act in the U.S. Senate.
- Cosponsor and support the Guardianship Assistance Promotion and Kinship Support Act in the U.S. House of Representatives.

## FEDERAL FUNDING TO SUPPORT GUARDIANSHIP PLACEMENTS

The Adoption and Safe Families Act, enacted in 1997, recognizes placement with a relative or a legal guardian as a permanency option for children in foster care; however, the federal government makes no funds available on a continuing basis to help those relatives care for the children.

States currently use a variety of sources to fund subsidized guardianship placements for children. Since 1996, 12 states have received federal funding through a Title IV-E child welfare waiver to provide support for guardians of children who have previously been in foster care. The waivers allow states to use Title IV-E foster care funds for kinship and guardianship placements if states can provide the services without the federal government incurring any additional costs over a five-year period. States also rely on other sources of federal funding to support these placements, including Temporary Assistance for Needy Families (TANF) and the Social Services Block Grant (SSBG). Other states have relied exclusively on state and local funds.

## ACTIONS IN 2006

Legislation enacted by the 109th Congress negatively impacted the limited supports for state programs that

assist grandparents and other relatives caring for children. In February 2006, Congress passed the Deficit Reduction Omnibus Reconciliation Act (P.L. 109-171), which included nearly \$600 million in cuts to federal foster care assistance for abused and neglected children being cared for by grandparents and other relatives. The Act repealed the 2003 *Rosales v. Thompson* 9th Circuit judicial ruling that extended Title IV-E foster care eligibility to some children being cared for by grandparents and other relatives. P.L. 109-171 cut federal spending on Title IV-E foster care by \$397 million over five years and \$879 million over 10 years. The budget bill also enacted restrictions on the use of Title IV-E administrative case management funding for the placement of children in kinship homes, children considered “candidates” for foster care, and children leaving ineligible facilities—such as psychiatric and crisis centers and some juvenile facilities—and moving into foster care.

## KINSHIP / GUARDIANSHIP LEGISLATION

Federal legislation for kinship and guardianship was introduced in both the Senate and the House in the last Congress. The legislation in the Senate and House differed somewhat, but both extended Title IV-E funding for grandparents, relatives, and guardians caring for children. Senators Hillary Rodham Clinton (D-NY) and Olympia Snowe (R-ME) introduced the Kinship Caregiver Support Act (S. 985) in 2005. This bipartisan legislation creates first-time federal support for children living with relatives in guardianship placements. The bill would also establish a Kinship Navigator Program, and ensure notice to relatives when children enter foster care.



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Representative Danny Davis (D-IL) introduced the Guardianship Assistance Promotion and Kinship Support Act (H.R. 3380) in 2005, which also provides federal support for children living with guardians. Specifically, this bill provides support for both relative and non-relative guardianship placements.

These supports help relative caregivers providing for children who have been in foster care for at least 12 months and whose care is paid for in part with federal Title IV-E Foster Care funds. To qualify, the child's reunification with his or her birthparents or adoption would have to be ruled out as appropriate options. Additionally, the child would need to demonstrate a strong attachment to the relative guardian, and the same commitment must be shown from the relative caregiver. The House bill would also extend this assistance to non-relative guardians. If the child is 14 years or older, he or she would have to be consulted regarding his or her essential living arrangements. In all instances, the aim is to place the child in the safest and most emotionally appropriate environment as possible.

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## KINSHIP NAVIGATOR PROGRAM

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Both bills provide support to states and large metropolitan areas to establish kinship navigator programs that would help grandparents and other relatives learn about and obtain assistance to meet the needs of the children they are raising. Grants would also facilitate effective community-based partnerships between public and private nonprofit and faith-based agencies. These partnerships would unite resources and support from a range of agencies that currently address the needs of children, youth, and the elderly.

The use of subsidized kinship and guardianship arrangements touches on only a portion of the families caring for a relative's child. Many relative caregivers, in and out of the child welfare system, face challenges accessing some of the most basic services for the children in their care. For instance, grandparents who raised their own children years ago may not be familiar with the latest school, child care, and health care services and requirements. Access to legal services and support groups may also represent a new challenge. For many of these families, receiving help finding and applying for such services can be critical. Some states, such as New Jersey and Ohio, have responded to these concerns by establishing "navigator" programs that help all relatives obtain community services and answers concerning appropriate care.

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## NOTICE OF CHILDREN ENTERING FOSTER CARE

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Both bills also require states notify relatives when children enter foster care within 60 days of a child's removal from custody. Currently, states are not mandated to inform relatives who may live in another community when a child is removed from their nuclear home. Under the legislation, notice must be provided to all adult grandparents and other adult relatives, including relatives suggested by the parent(s). Exceptions can be made to this requirement in cases of family or domestic violence.

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## THE IMPORTANCE OF KINSHIP CARE AND GUARDIANSHIP

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Kinship care is a situation in which an adult family member, such as a grandparent, aunt, uncle, or other relative, provides a caring home for a child who is not able to live with his or her parents. The practice is not new, but it is growing partly because repeated studies and *CWLA Best Practice Guidelines* have revealed the value of placing children with a relative when appropriate. The financial difficulties many relatives experience potentially threatens the use and merit of this practice, however.

Kinship placements for children in the child welfare system have increased in recent years. The U.S. Children's Bureau gives three major reasons for this growth: the number of non-relative foster parents has not kept up with need, child welfare agencies view the kinship option more positively, and courts have placed a higher value on the rights of relatives to act as foster parents.

Subsidized guardianship is another important permanency option for relatives who care for children. The number of states implementing guardianship programs reflects growing national interest in the use of guardianship as an alternative permanency option for some children in foster care, particularly for children who are placed with relatives, who cannot be safely reunified with birth parents, and who cannot or do not wish to be adopted. The use of subsidized guardianships is relatively new, with Massachusetts establishing the first program in 1983. By 2004, 35 states and the District of Columbia had subsidized guardianship programs.

In 2005, the U.S. Department of Health and Human Services (HHS) released findings and evaluations of the seven state waiver demonstration programs that allow federal Title IV-E Foster Care and Adoption Assistance funding to support guardianship programs. These initial findings



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reflect that non-relative guardianship is a viable and effective option for child welfare workers to consider. The major findings include: The availability of assisted guardianship as a permanency option may decrease the length of out-of-home placements; combined data from two states reveals that less than 5% of the children in guardianship placements return to foster care; children in guardianship placements fare as well as those in other permanency settings on several measures of well-being, including school performance, engagement in risky behaviors, and access to community resources; and the use of guardianship placements shows statistically significant signs of positive outcomes, with more exits from foster care resulting in reunification or adoption.

Kinship care and subsidized guardianship programs allow qualified relatives or qualified non-relatives to step in and provide care—care they may not have been able to provide otherwise because of the financial burdens such a role requires. Additionally, these relative placements may offer an emotional and cultural benefit to children who cannot return safely to their parents and for whom adoption is not an appropriate option.

Sources for statistical information are provided in the online version of this fact sheet. See [www.cwla.org/advocacy/2007legagenda.htm](http://www.cwla.org/advocacy/2007legagenda.htm).

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## C W L A C O N T A C T

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## K E Y F A C T S

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- According to the 2000 Census, some 6 million children live with relatives—4.5 million of whom live with grandparents, a 30% increase between 1990 and 2000. Most of these families are not part of the formal child welfare system.
- Almost 20% of grandparents who are responsible for their grandchildren live in poverty. Overall population statistics in 1997 indicated that 27% of children living in grandparent-maintained homes lived below the poverty level, compared with 19% in households maintained by parents.
- Approximately one-quarter of all children in kinship care live in families that receive either a foster care payment or a child-only payment through Temporary Assistance for Needy Families (TANF).<sup>9</sup> The remaining families do not receive federal financial support, even if they need such support and services.
- Of the 509,662 children in out-of-home care on September 30, 2004, 23.5% were living with relatives while in care.
- Of the 185,700 children living in long-term foster care and awaiting a permanent setting in 2002, 46,000 (1 in 4) lived with a relative.