

NEW YORK

Subsidized Guardianship



Subsidized Guardianship Programs: New York

Subsidized Guardianship Overview

Subsidized guardianship is an option that allows children to live permanently with grandparents and other relatives when they cannot live with their own parents and when adoption is not a viable option. Although they vary from state to state, in general subsidized guardianship programs are intended either to help children exit the child welfare system into safe and permanent homes with relatives, or to keep children from unnecessarily entering the system in the first place when they are already living safely with grandparents or other relatives. This option is available in some states to children whose caregivers have obtained legal guardianship or permanent custody through existing state laws. Subsidized guardianship provides grandparents and other relative caregivers with the legal authority to make important decisions on behalf of the children in their care without government intervention while providing critical funds to help meet the basic needs of the children when they cannot return home. Subsidized guardianship payments may be equal to the state foster care rate, the TANF rate, or somewhere in between.¹

The states that have implemented subsidized guardianship programs recognize that in certain family situations, guardianship or permanent custody might be the best permanence option available when children cannot return home. Subsidized guardianship arrangements are particularly important for children raised by grandparents or other relatives because they:

- Enable families to maintain bonds with the birth parent(s) who may have a physical or mental disability that makes them unable to care safely for the children in their own home;
- Honor the wishes of many older children who may not wish to be adopted and/or to break ties with their birth parents;
- Allow birth parents who may one day be able to resume caregiving activities to regain custody of the child with the oversight and approval of the courts and/or child welfare agency;
- Respect the cultural norms existent in many cultures where terminating parental rights defies important societal norms of extended family and mutual interdependence;
- Provide the courts with the flexibility to limit or expand the legal guardian's and parents' authority as necessary to best serve the changing needs of individual children, their caregivers, and birth parents;
- Limit state oversight and intervention in the lives of grandparents

and other relatives who are ready to care permanently for the children in their homes, for whom adoption and reunification have been ruled out, and who want to minimize the state's ongoing role in their lives.²

Promising Practices: Lessons from Other States

In the late 1990's Congress passed legislation that allowed states to apply for federal waivers to operate demonstration subsidized guardianship programs, using federal foster care funds under Title IV-E of the Social Security Act. One goal of these demonstrations was to determine whether offering these subsidies to families could increase the rate of permanence for children in foster care above levels observed for families not offered guardianship as an option. Since 1997, seven states³ (DE, IL, MD, MT, NM, NC, OR) have implemented demonstration Title IV-E waiver programs that provide subsidies to relative caregivers who become the legal guardians of children in the custody of the state child welfare agency. Initial evaluations of these demonstration programs have been positive. States with guardianship programs funded under federal IV-E waivers totaled a 33 percent decrease in long-term relative foster placements in which neither reunification nor adoption were options.⁴ Further, an evaluation of Illinois' Title IV-E waiver program found that over five years, subsidized guardianship provided permanence for more than 6,800 children who had been in foster care, that discussing all permanency options actually helped to significantly increase the number of adoptions, and that the children involved perceived guardianship as providing as much security as adoption.⁵

New York's History with Relative Foster Care and Subsidized Guardianships

New York does not currently have a subsidized guardianship program and has not generally shown evidence of being a state that gives preference to relative placements. In fact, though the nationwide trend is toward placing more foster children in relative placements, the trend in New York has been a reduction in the number of relative placements – from nearly 38% in 1991 to only 19% in 2001. In 1996, when Congress passed an amendment to the Social Security Act offering states the option to apply for a



waiver to test alternative approaches to service delivery for relative foster families under Title IV-E, New York was one of the states that did not submit an application. In 1997, when the Adoption and Safe Families Act (ASFA) made a distinction between relative and non-relative foster families in matters of permanency planning, many states pursued subsidized guardianship as a permanency option for children in relative care.

Although New York did not pursue subsidized guardianship at that time, there are currently efforts underway in New York to pursue subsidized guardianship legislation. The Federation of Protestant Welfare Agencies (FPWA), a national leader in the field of child welfare, is urging state officials to pass legislation that supports “subsidized kinship guardianship” as a viable permanency option for approved or certified relative caregivers.⁶ For more information about FPWA’s recommendations or on how to support their efforts, contact them at:

Federation of Protestant Welfare Agencies
281 Park Avenue South
New York, NY 10010
(212) 801-1310, jstevens@fpwa.org
<http://www.fpwa.org/advocacy/childwelfare.html>

Other organizations involved in efforts to pass subsidized guardianship legislation in New York are:

AARP New York State Office
780 Third Avenue, 33rd Floor
New York, NY 10017
(866) 227-7442, nyaarpp@aarp.org
<http://www.aarp.org/states/ny>

National Committee of Grandparents for Children’s Rights
School of Social Welfare
HSC, Level 2, Room 093
Stony Brook University
Stony Brook, NY 11794-8231
(866) 624-9900, bcastellano@grandparentsforchildren.org
<http://www.grandparentsforchildren.org>

Despite New York’s history, the recent passage of new foster care legislation indicates that New York is moving in the direction of favoring relative placements. On June 20, 2005 legislation was unanimously passed by the New York State Legislature that will require social services personnel to conduct an expansive search for a child’s relatives and notify them of the opportunity to serve as foster parents. The legislation will help children’s relatives to become their foster parents by:

- Widening the search for a child’s relatives, including absent parents;
- Mandating social services to ask the children (as young as five years old) about relatives who play significant roles in their lives;
- Placing the child in the home of a relative while qualifying the relative as a foster parent; and

- Creating a new procedure to permit relatives to petition to become foster parents up to six months after the notification of the removal of the child.⁷

For more information on this legislation, contact the National Committee of Grandparents for Children’s Rights.

Conclusion

Efforts are underway at the state level to support relative placements and a subsidized guardianship program in New York, however, tight state budgets make it difficult to enact state funded subsidized guardianship programs and guarantee their long-term viability. Proposed federal legislation that would allow federal Title IV-E foster care funding to be used for subsidized guardianship programs would help ensure long-term stability of supportive resources for caregiver families and could free up some state funds to be used to serve additional children.

For more information about pending federal legislation affecting subsidized guardianships or about grandparents or other relatives raising children in general, visit Generations United’s website at www.gu.org.

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Generations United (GU) is the only national membership organization focused solely on improving the lives of children, youth, and older people through intergenerational strategies, programs, and policies. For further information, please contact: Generations United (GU), 1333 H Street, N.W., Suite 500W, Washington, D.C. 20005 (202) 289-3979, Fax: (202) 289-3952; e-mail: gu@gu.org. The GU web site at www.gu.org contains additional information about grandfamilies.



¹ Children’s Defense Fund. “States’ Subsidized Guardianship Laws at a Glance.” Children’s Defense Fund, 2004.

² Bissell, Mary and Miller, Jennifer (eds). “Using Subsidized Guardianship to Improve Outcomes for Children: Key Questions to Consider.” Children’s Defense Fund and Cornerstone Consulting Group, 2004.

³ A total of nine Title IV-E waivers have been granted. However, Delaware’s and Maryland’s programs are no longer operational and, at the time of this printing, both Minnesota and Wisconsin have been granted, but have not yet implemented, Title IV-E waivers. Six additional states (AK, IA, ME, MI, NJ, TN) have submitted applications for Title IV-E waivers, all of which are currently pending.

⁴ Fostering Results. *Family Ties: Supporting Permanence for Children in Safe and Stable Foster Care With Relatives and Other Caregivers*. Fostering Results, Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign, 2004.

⁵ Children and Family Research Center. *Illinois Subsidized Guardianship Waiver Demonstration: Final Evaluation Report*. Urbana, IL: School of Social Work, University of Illinois at Urbana-Champaign, 2003, in The Pew Commission on Children in Foster Care. *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*. The Pew Commission on Children in Foster Care, 2004.

⁶ Federation of Protestant Agencies, Inc. *Subsidized Kinship Guardianship: It’s Time*, 2002.

⁷ AARP New York Press Release. *NY Legislature Passes Foster Care Bill Focused on Keeping Families Together; AARP-Supported Bill Requires Social Services to Increase Opportunities to Allow Relatives to be Foster Parents*. June 23, 2005, 3:40PM.