

Children and Family Research Center

Fostering Results

Family Ties

Supporting Permanence for Children in Safe and Stable Foster Care With Relatives and Other Caregivers

The past decade has seen unparalleled success in finding adoptive homes for children in foster care. This achievement—including states' answering the federal challenge to double adoptions out of foster care in five years—was the result of coordinated efforts across multiple fronts.¹ At the national level, the Adoption and Safe Families Act (ASFA) of 1997 required that states pursue adoptive homes for children who had been in foster care for 15 out of the latest 22 months.² Federal policy also linked adoption performance to financial rewards by offering bonuses to states increasing the numbers of adopted foster children. State agencies and courts rallied to the call by setting goals, tracking timelines, and expediting legal processes to secure the placement of foster children in safe and permanent homes.

Despite the noteworthy accomplishments, serious work remains for the estimated 185,700 foster children still awaiting permanence.³ The importance of finding these children safe and permanent homes is a federal and state priority. But a long-recognized permanency option that ASFA reaffirms is under-utilized by states working to secure permanence for children—especially those children in safe and stable placements with relative caregivers. This permanency option is legal guardianship, and the focus of this report is how children in long-term foster care with relatives are prime candidates for permanence when supported through some form of subsidized guardianship.

Forty-six thousand children—one out of every four of the 185,700 awaiting permanence in long-term foster care in the United States—live in relative foster care⁴ (see Figure 1). Research supports this practice. Studies show that children cared for by kin are safer⁵ and less likely to

change living arrangements than children in unrelated foster care.⁶ Even with the benefits, retaining children in safe kinship foster care placements does not provide children a permanent legal home, and it does not come without significant administrative costs. When the state retains legal custody, the government—through a caseworker and a judge—is the only legally recognized decision-maker for the child. Tasks like routine immunizations, school pictures, and out-of-state trips can require prior approval and multiple signatures. Relatives' raising children in foster care are subject to routine court appearances, quarterly case reviews and monthly visits by caseworkers which limit the privacy that other families take for granted. A caseworker can decide at any time to remove the child from the relative's home. While these activities serve an important purpose when the child welfare system is engaged in preparing a child to return to his or her parents or ensuring the safety of a foster care placement, these same activities can be an unnecessary burden for relative caregivers, especially once a judge has decided that reunification with biological parents is not an option. In such cases, the better choice is for government to get out of the lives of these families by converting safe and stable kinship foster placements into legally permanent homes. Unfortunately, the lack of financial assistance for an additional permanency option—like subsidized guardianship—is creating barriers to these conversions. States receive federal resources to help provide adoption assistance to relative families. However, under current



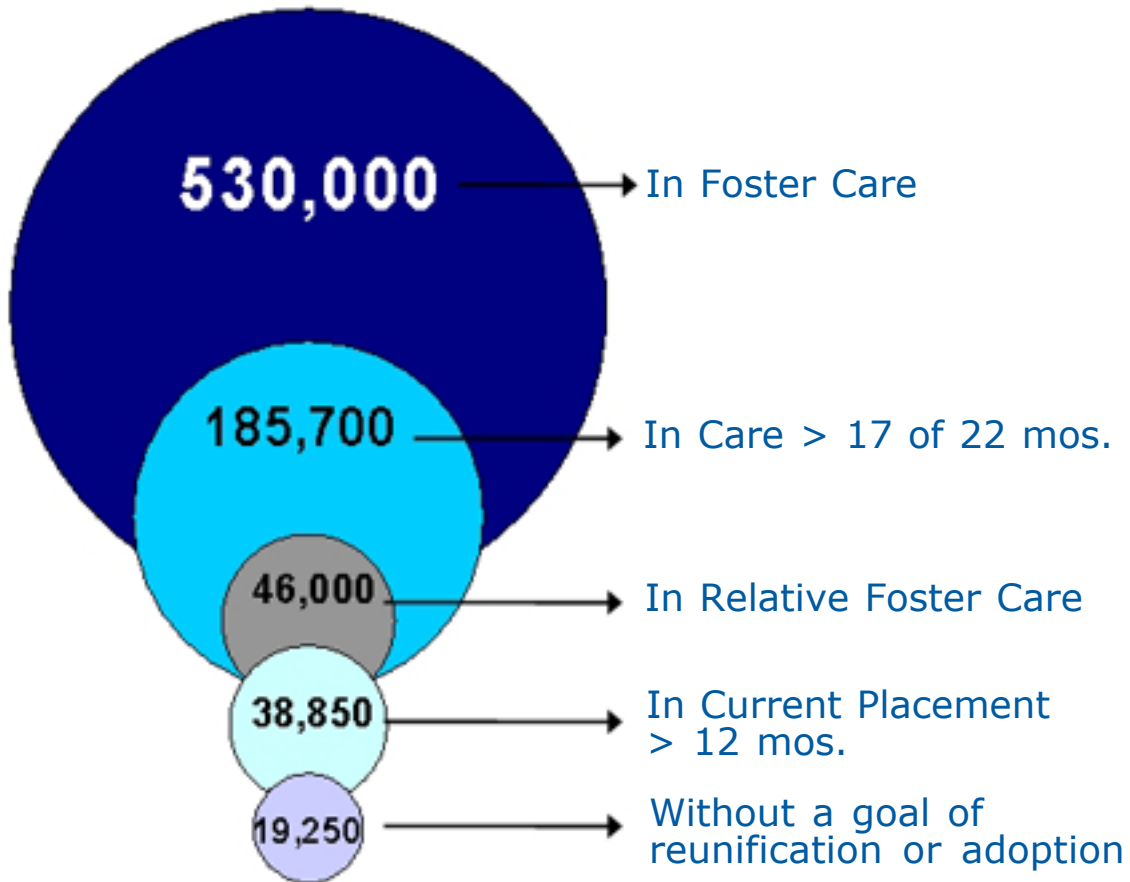
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Figure 1.— Walk-down from U.S. Children in Foster Care to Number of Children Awaiting Permanence in Long-Term, Relative Foster Care without a Goal of Reunification or Adoption, September 30, 2002.

United States, 2002



Source: Special Analysis of Adoption and Foster Care Analysis and Reporting System, 2002.

law, states do not receive federal child welfare resources for guardianships (with the exception of a limited number of states discussed later in this report that have received “waivers” of federal financing rules to provide guardianship assistance.)

By supporting legal guardianship with a subsidy the same way federal policy now supports adoption, additional children in long-term foster care with kin could join the thousands of children who have already left the child welfare system for adoptive homes. Subsidizing legal guardianship complements subsidized adoption and builds on the strengths that foster care by grandparents,

aunts, uncles and other relatives brings when children can no longer be looked after by their birth parents and a court determines that adoption is not an appropriate option for them. Using recently released 2002 federal AFCARS data, there are an estimated 19,250 children in long-term care with relatives where a court has determined that they cannot be safely returned to their parents and has also determined that adoption is not an option (see Figure 1).⁷ Subsidized guardianship gives states an important tool for moving these 19,250 children out of long-term foster care and into safe, loving, and permanent homes once reunification and adoption have been ruled out.

The fact that there is no federally funded assistance program supporting children discharged from foster care to the legal guardianship of relatives limits the ability of states to replicate the successes of other states in reducing the number of foster children in long-term placements with kin. Subsidized guardianship is increasingly emerging as an important policy solution at both federal and state levels. States continue to pursue the prospect of funding guardianship with federal dollars through the waiver process, and legislation to create a federally-funded subsidized guardianship program has been introduced in Congress.⁸ The research makes a strong case that federal reimbursement facilitates permanence and assists in ending the legal uncertainty of relative foster care by bringing stability and security to the thousands of foster children who are—by any measure—already home.⁹

Permanence and the Law

The federal Adoption and Safe Families Act of 1997 recognizes both adoption and guardianship as viable legal alternatives for pursuing permanence for children in kinship foster care when reunification is not possible.¹⁰ Adoption transfers all rights and duties from birth parents to adoptive parents. It works well for relatives who have raised the children from birth, don't know the parents' whereabouts, or know them to be a continuing safety threat to the children. Legal guardianship also transfers these same rights and duties, but it allows birth parents to maintain a presence in their children's lives. Unlike adoption, guardianship does not require terminating parental rights and recasting extended family relations into the nuclear family mould of parent and child. It works well when relatives prefer to retain their extended family

identities as grandparent, aunt or uncle instead of becoming mom or dad. It also serves as a viable alternative when there are insufficient grounds to terminate parental rights, or children object to having their ties legally severed from their biological parents and siblings. For example, a biological parent dealing with profound physical or mental disabilities may not be able to care for her child, yet the best interests of the child may not be well-served by forcing a termination of parental rights (see "Profiles: Where Guardianship Can Help"). In such circumstances, subsidized guardianship offers a way for relatives to step in while still retaining the family bond. With the option of subsidized guardianship, families and judges have the flexibility to lend legal permanence to existing family bonds in a way that best respects cultural norms and strengthens the role of extended family.¹¹

Financial Support for Guardianship

While both adoption and guardianship are technically recognized in federal statute, federal financing laws effectively limit guardianship as a permanency choice by continuing federal financial assistance only to relatives who remain foster parents or adopt. Under existing federal financial regulations, relative foster parents who become legal guardians are not eligible for federally supported child welfare assistance if they assume permanent legal guardianship for the child. While states can and do financially support guardianships in some jurisdictions, there exists a clear financial disincentive to move a child from a placement where the cost is shared by the federal government (foster care) to a placement supported solely by state dollars. In effect, the absence of a federally supported guardianship program not only limits an important

Where Guardianship Can Help: Dominic and Dwayne

Dominic (13) and Dwayne (11), were removed from their mother's home for neglect and placed with Grandma Cook. Moving in with grandma was a logical step for the boys, given that Grandma Cook often stepped in when their mom vanished on repeated drug binges or when the family didn't have enough money for groceries. Staying with grandma meant they didn't have to change schools, and the boys could continue to walk to the neighborhood center, a popular hangout after school, where they regularly played basketball and received help with their homework. This arrangement proved important for both boys, who each had special health and education needs well-known to grandma. Protecting the boys without alienating their mother was important for Dominic and Dwayne. They realized their mother could not safely care for them, but they were not interested in adoption. In their view adoption would—at least legally—sever the parental bonds with mom. These boys are home, in a stable placement with a committed caregiver. It's questionable how continued case management, court appearances and quarterly case reviews aid this family. Yet with reunification ruled out and an unwillingness to pursue adoption, it's easy to see how this case could remain in care the six to eight years it takes for the boys to become adults. For Grandma Cook, subsidized guardianship is a choice that allows her to provide Dominic and Dwayne with a safe and stable home without radically altering their family structure.

permanency option for thousands of families incapable of supporting the entire cost of care on their own, the continuing availability of federal payments for relatives as long as they continue to provide care to an open child welfare case inflates the number of children in more costly public foster care.

Long-Term Care and Relatives

An estimated 46,000 children in kinship foster care in the United States have been under the legal responsibility of the state for longer than 17 out of the most recent 22 months (see footnote 2 for explanation of reference to 17 months). Interestingly, if these same children were in unrelated foster family or group care, federal law would direct states to file a petition terminating the rights of their parents and approve a qualified family for an adoption. While federal law directs states to file a petition terminating the rights of children who have been in care for 17 months, the state may choose to exempt individual children living with relatives from this requirement.¹²

This exclusion wisely recognizes that children in safe and stable relative foster care are, for all practical purposes, already living with family. In many of these cases, the termination of parental rights would only serve to disrupt the nuclear bond that legally ties extended kin to the child. The unfortunate consequence of this exemption for relatives is that it gives states the erroneous impression that they no longer have any affirmative obligation to pursue permanence for many of these 46,000 children —77% of whom have been living in the same relative home for a year or more and 27% for four years or more.¹³ It can be argued that most of these children are already safely home. The continuation of child welfare agency and court oversight of these families adds cost and unnecessary governmental intrusion.

Funding Guardianship Programs: Federal Waivers

In the late 1990s, several states responded to the federal invitation for child welfare demonstrations by applying for waivers to test the feasibility of extending financial assistance to foster parents willing to become the legal guardians of the children under their care when reunification and adoption have been ruled out.¹⁴ The aim of these federal and state waiver demonstrations was to determine whether offering guardianship subsidies to families could boost the rate of permanence for children in foster care above levels observed for families not offered guardianship as an option. Because waiver demonstrations test new approaches in policy and financing, they have the benefit of being constructed using what's known as an experimental design. Using an experimental design ensures that randomly constructed control and demonstration groups are similar enough to verify whether or not the added option of subsidized guardianship as a permanency choice actually improves permanency rates (reunification, adoption and guardianship combined) for those families given the choice.

Since 1997, a total of seven states (Delaware, Illinois, Maryland, Montana, New Mexico, North Carolina and Oregon) have implemented federal waivers to provide subsidies to relatives who become the legal guardian of children in the custody of the child welfare agency—a practice currently not supported within existing federal guidelines that govern reimbursable costs to the states (Title IV-E of the Social Security Act). In Montana and New Mexico, children under the jurisdiction of the Tribal courts were included in the demonstration project. All of the states with IV-E waivers provide a monthly guardianship subsidy that is equal to or less than the current foster care payment, with approximately

half of the cost borne by the federal government.

Where Guardianship Can Help: Jackie

Jackie is a 15 year old girl placed in foster care 3 years ago after her mother was reported to child protective services for chronic neglect. At that time her mother was unemployed, and had been diagnosed with a particularly debilitating form of schizophrenia for which she consistently failed to take medication. Her mother's erratic behavior, coupled with unpredictable and sustained absences, was determined to be too great a risk to permit Jackie staying in the home. Jackie's mother had an older sister, Jodie, who had worked over the years to keep mother and daughter stable—arranging medical appointments, keeping Jackie in school and otherwise dealing with the challenges posed by her sister's mental illness. The decision to place with Aunt Jodie was an easy one. Over time, Jackie's mom would improve and then again deteriorate. Even with mom a constant fixture in their lives, it was clear to everyone that she was incapable of caring for Jackie in a sustainable way. Both daughter and aunt felt strongly about not going through the legal ordeal of severing parental rights, yet both felt strongly it was time to end the routine meetings, court appearances and home visits required by the supervising child welfare agency. For this family, subsidized guardianship allows Jackie and her Aunt Jodie to meet their needs for independence without undermining their love and compassion for Jackie's mother.

Table 1.—Estimated Number of Children in Kinship Foster Care in State Custody for 17 out of 22 Months¹⁵ With Neither a Goal of Reunification nor Adoption by Time in Relative’s Home, 1999 and 2001

State	Children in Relative Homes 12+ Months September 1999	Children in Relative Homes 12+ Months September 2001	Percent Change From 1999-2001 ¹⁶	Subsidized Guardianship Primary Funding Source
Alabama	188	166	-11.7%	No Program
Alaska	32	34	6.3%	State
Arizona	159	53	-66.7%	State ¹⁷
Arkansas	31	23	-25.8%	No Program
California	23,301	13,320	-42.8%	TANF ¹⁸
Colorado	66	47	-28.8%	No Program ¹⁹
Connecticut	28	NA	NA	State
Delaware	22	7	-68.2%	IV-E Waiver ²⁰
Florida	NA	969	NA	TANF
Georgia	204	302	48.0%	TANF ²¹
Hawaii	5	6	20.0%	State
Idaho	14	6	-57.1%	State
Illinois	3,610	2,100	-41.8%	IV-E Waiver
Indiana	324	160	-50.6%	TANF ²²
Iowa	6	9	50.0%	State ²³
Kansas	29	17	-41.4%	State ²⁴
Kentucky	49	48	-2.0%	TANF ²⁵
Louisiana	37	17	-54.1%	TANF ²⁶
Maine	13	20	53.8%	No Program
Maryland	2,170	1,641	-24.4%	IV-E Waiver
Massachusetts	84	286	240.5%	State
Michigan	116	171	47.4%	No Program
Minnesota	163	182	11.7%	State
Mississippi	94	110	17.0%	No Program
Missouri	334	482	44.3%	State
Montana	32	60	87.5%	IV-E Waiver ²⁷
Nebraska	146	112	-23.3%	State
Nevada	NA	25	NA	TANF ²⁸
New Hampshire	28	27	-3.6%	No Program
New Jersey	32	84	162.5%	TANF
New Mexico	17	11	-35.3%	IV-E Waiver ²⁹
New York	631	591	-6.3%	No Program
North Carolina	133	99	-25.6%	IV-E Waiver
North Dakota	18	23	27.8%	State
Ohio	216	112	-48.1%	No Program ³⁰
Oklahoma	144	158	9.7%	TANF ³¹
Oregon	257	235	-8.6%	IV-E Waiver
Pennsylvania	257	775	201.6%	State
Rhode Island	45	39	-13.3%	State
South Carolina	8	5	-37.5%	No Program
South Dakota	13	5	-61.5%	SSBG ³²
Tennessee	66	30	-54.5%	No Program
Texas	56	64	14.3%	No Program
Utah	1	18	1700.0%	State
Vermont	19	15	-21.1%	No Program
Virginia	38	40	5.3%	No Program
Washington	116	106	-8.6%	No Program
West Virginia	39	19	-51.3%	State
Wisconsin	61	89	45.9%	No Program
Wyoming	21	7	-66.7%	State
United States	33,473	22,925	-31.5%	—

Source: Special analysis of AFCARS 1999 and 2001. Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign.

Generally, subsidies in these states were offered to relatives and foster parents who have been caring for the children for at least one year and for whom reunification and adoption by the prospective guardian have been ruled out as permanency options.³³

Funding Guardianship Programs – Other States

While the availability of federal waivers allowed a number of states to test the impact of offering subsidies to relatives willing to assuming permanent, legal guardianship using IV-E funds, other states have made subsidies available through federal TANF dollars or other state funds. A state-by-state examination of guardianship options—including subsidized guardianship funded through waivers, TANF dollars and state dollars highlights the impact of funding guardianship programs. Table 1 provides estimates of the number of foster children who were in state custody for at least 17 out of 22 months in 1999 and 2001 and met the dual condition of residing in the same relative foster home for a year or more and having neither a goal of reunification nor adoption. These children are prime candidates for moving out of long-term foster care into permanent homes through legal guardianship. The table also identifies whether or not each state offered subsidies for guardianship placements and how the program was funded (IV-E waivers, TANF or exclusively state dollars).

As highlighted in Table 2, whether or not guardianship was supported with federal dollars made a difference in the build-up of relative care placements between 1999 and 2001. The lone exception among waiver states, Montana, did not begin its waiver program until after September 2001. For the states offering subsidized guardianship through a IV-E waiver, the number of children discharged to legal guardianship after one year in foster care was 3,029 during federal fiscal years 2000

and 2001. Before the start of federal fiscal year 2000, there were a total of 6,241 children in stable kin placements with neither a goal of reunification nor adoption as of September 30, 1999 (see Table 2). Two years later, the number of children in long-term kinship foster care in the waiver states dropped to 4,153 children as of September 30, 2001. Although not all of the decline can be attributed exclusively to exits to legal guardianship, this permanency option did figure prominently in the reduction of children in long-term kinship foster care for whom a plan for reunification or adoption had been ruled out.³⁴

States with guardianship programs funded under federal IV-E waivers totaled a 33 percent decrease in long-term kin placements with neither a goal of reunification or adoption. States with guardianship programs funded with federal TANF dollars (and the federally funded Social Services Block Grant) totaled a 37 percent decline.³⁵ For these ten states, the number of children discharged to legal guardianship after one year in foster care was 6,607 during federal fiscal years 2000 and 2001. Before the start of federal fiscal year 2000, in these ten states there were a total of 24,104 children in stable kin placements with neither a goal of reunification nor adoption as of September 30, 1999 (see Table 2). Two years later, the number of children in long-term kinship foster care in these 10 federally subsidized states dropped to 15,088 children as of September 30, 2001. Again, not all of the decline can be attributed exclusively to exits to legal guardianship. Nonetheless, the permanency option contributed significantly to the reduction of children in long-term kinship care.³⁶

In contrast, states that financed guardian subsidies entirely from state revenues showed a significant rise in the number of children in long-term kinship foster care from 1,381 to 2,068 – an increase of nearly 50% over the

Table 2.—Funding Source Summary of Estimated Number of Children in Kinship Foster Care in State Custody for 17 out of 22 Months With Neither a Goal of Reunification nor Adoption by Time in Relative’s Home, 1999 and 2001

Subsidized Guardianship Primary Funding Source	Children in Relative Homes 12+ Months September 1999	Children in Relative Homes 12+ Months September 2001	Percent Change From 1999-2001
IV-E Waiver	6,241	4,153	-33.46%
State	1,381	2,068	49.75%
TANF	24,104	15,088	-37.40%

Source: Special analysis of AFCARS 1999 and 2001. Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign.

two years. The divergent trends between states with IV-E waivers or TANF/SSBG-funded guardianship programs and those with entirely state-funded programs illustrate the contradictory incentives that arise from continuing federal child welfare payments to families that remain in the foster care system while withdrawing federal assistance from relatives who become permanent legal guardians.

Without federal support, few state-funded guardianship programs can afford to pass along the full foster care stipend to private guardians. The fact that seven of the 17 states with state funded programs are currently not funding them at the foster care rate or not funding them at all³⁷ suggests the central role played by a federally supported subsidy program. The path of least resistance is for children to remain in public custody and for the state to continue claiming federal reimbursement for the federally supported foster care boarding stipends they pay to kin. Not only does this practice deny these children the security of family permanence, but retaining them in public foster care unnecessarily inflates the combined state and federal cost of care.

Subsidy Levels: State Experiences

The disincentives to permanence posed by differentials in payment to foster parents and legal guardians can be illustrated by the experiences in the two states that mounted the largest IV-E waiver demonstrations: Illinois and Maryland. As shown in Table 1, Maryland experienced a smaller decrease than Illinois with respect to the number of children in long-term kinship foster care: 24% for Maryland versus 42% for Illinois over the two years. More striking is that fact that the Illinois demonstration was able to find permanent homes through adoption, guardianship, and reunification for 78% of the children in the experimental group compared to 72% in the control group.³⁸ The availability of subsidized guardianship led to permanent placements for 6,822 children over the full five years of the demonstration. By contrast, the permanency difference in Maryland was negligible. Even though children in the experimental group exited from care faster, children in the control group eventually caught up to the experimental group. At the end of the demonstration, there were no differences in the percentages who achieved permanence (adoption, guardianship and reunification)—43% in the control group and 42% in the experimental group.³⁹

One of the reasons that Maryland attained a lower permanency rate than Illinois and showed no difference between the experimental and control groups is the sizeable difference in subsidies that legal guardians received compared to relatives who remained licensed foster

parents. In Maryland, licensed foster parents receive \$600 per child in monthly boarding stipends, while legal guardians receive \$300 per child in monthly subsidies. There is no difference in Illinois. The monthly guardianship subsidy of \$350 per month is equal to both the foster boarding stipend and the adoption assistance amount. In their independent evaluation of the Maryland demonstration, researchers concluded that the payment differential discouraged licensed foster parents from choosing guardianship over foster boarding payments.⁴⁰

The parity of the guardianship subsidy and foster boarding stipend also helps account for the success of the subsidized guardianship program in California, which is funded, in part, from federal TANF dollars. As shown in Table 1, California also showed a sizeable decline in the number of children in long-term kinship foster care after it implemented its Kinship Guardianship Assistance Program (KinGAP) in January of 2000. As of September of 1999, there were 23,300 children in stable kin placements with neither a goal of reunification nor adoption in California prior to the implementation of KinGAP. During the next 21 months after the implementation of KinGAP, 5,414 foster children exited to legal guardianship after one year in public custody. As of September 2001, the number of children in long-term kinship foster care in California stood at 13,300 children – a 43% decline over two years. As with other states, the decline in the number of long-term kinship care placements is not exclusively related to the number of exits to KinGAP. However, the availability of KinGAP and guardianship as a permanency option contributed significantly to the reduction of children in long-term kinship care.⁴¹

Both the TANF-supported California KinGAP program and the Illinois IV-E subsidized guardianship demonstration look similar in other ways besides each pegging the subsidy amount to the foster boarding stipend. Both programs require that the children reside with the prospective guardian for at least one year to ensure the commitment of the relative and the stability of the placement (for other common components, see sidebar “Common Components of Successful Guardianship Programs.”)

Subsidizing Guardianship

Although both California and Illinois succeeded in achieving permanence for children in kinship foster care by drawing on different funding streams, the ability of states to replicate California’s success with TANF dollars depends, of course, on the availability of surplus TANF funds. Unlike the open-ended funding for adoption

Common Components of Successful Guardianship Programs

In May 2004, the Pew Commission on Children in Foster Care recommended that the federal government provide federal guardianship assistance to all children who leave foster care to live with a permanent, legal guardian.⁴² The recommendations reflect a growing consensus that guardianship offers a viable option when children cannot return home or be adopted. The Commission's recommendations also draw on the experience of a growing number of administrators, caseworkers, judges and attorneys who recognize what it takes to make guardianship a meaningful option for children. The Commission's call for a federal subsidized guardianship program highlights the following eligibility requirements of the two most successful programs in the country—Illinois and California. What follows is a combination of strategies used by these states and recommendations from the Pew Commission on Children in Foster Care:

- ❑ ***Eligibility limited to children in foster care.*** Subsidized guardianship is as an alternative to keeping a child in foster care. Providing a subsidy for families where there has been no child welfare intervention would greatly increase the cost and expand the number of families receiving assistance beyond the intended target group.
- ❑ ***Equal subsidy levels:*** Setting adoption and guardianship subsidy levels that are equivalent to what families receive in foster care helps promote permanence by allowing foster parents to provide the same level of care as they did while the child was in foster care. Having a guardianship subsidy that equals the foster care and adoption subsidy rate allows families to make a choice that is in the best interests of the children, rather than having to decide based upon how much money is available to adequately address their needs. Equal subsidies, in other words, amount to equal choices.
- ❑ ***Rule out requirement:*** To ensure that guardianship is used only in the most appropriate situations, it is important to require that the court rule out reunification and adoption on a child-by-child basis, based upon the best interests of the child, before agreeing to guardianship. Rule out helps ensure that children have the best chance possible to return to their birth parents, or to achieve the legal permanence offered by adoption. Seeing concrete evidence that adoption is not right for a particular family also helps judges make permanency decisions with more certainty that they are in the best interests of the child.⁴³
- ❑ ***Ensuring safety:*** To ensure that children in guardianship arrangements are safe and stable, federal eligibility should require relatives to submit to background and criminal checks prior to placing the child and once again prior to the court's awarding legal guardianship.
- ❑ ***Strong attachment:*** By requiring that there be evidence of a strong attachment between the child and the guardian, the court can determine whether the placement is likely to last, and whether the child will receive the nurturing needed through adulthood. This is often coupled with a requirement that the child be in the guardian's home some time period – usually at least a year – before guardianship is granted.

Finally, California, Illinois and other jurisdictions have learned about the importance of training and education for the entire child welfare field to help make guardianship a meaningful option for children. Permanency decisions are most successful when caseworkers, judges, attorneys, families and young people understand all the similarities and differences between reunification, adoption and guardianship and have opportunities for meaningful dialogue about what is in the best interests of the child(ren).

waivers, TANF funds are capped. In fact, very few states with TANF-funded guardianship programs were able to replicate California's success. Excluding California from the aggregate trend analysis shows that the number of children in long-term kinship foster care declined only 3% for the remaining states with TANF-funded guardianship programs. Today, only five out of the nine states that fund subsidized guardianship with TANF dollars are

providing subsidies at the foster care rate,⁴⁴ and one of these programs was recently suspended for new entrants due to lack of sufficient funds. Furthermore, not all of the TANF funded programs help children exiting foster care. In fact, of the 11 states that subsidize guardianships with TANF dollars, four of these are for children who are not in foster care.

Making Good on the Promise of Permanence

With the passage of ASFA, there was clear recognition of the importance of timely permanence for children placed in foster care. It also sought to support the unique and important role that relatives can play in the lives of children who can no longer live with their parents. While both are important goals, taken together the result for children placed with relatives has been a slow move to permanence. The large number of children living with relatives who have remained in foster care more than two years highlights a missed opportunity for the nation's child welfare system. These placements—the safest and most stable for children in care—are commitments recognized in policy, but not now financially supported in practice.

The lessons learned from innovative efforts in various child welfare jurisdictions point to subsidized guardianship as an additional pathway to permanence for this group of children. The evidence is clear: supporting legal guardianship from foster care the same way IV-E supports adoptions promotes the goal of permanence for children. Moreover, in most cases, these placements can be supported at less cost to taxpayers because there is a reduction in the administrative costs associated with

managing and overseeing an open foster care case. The evidence also suggests that how the program is funded makes a difference. Those subsidized guardianship programs that relied exclusively on state dollars made uneven progress in converting stable relative placements into permanent homes, while federal support through waivers helped states promote subsidized guardianship as a permanency option for relative caregivers.

While securing better outcomes at less cost is an independently compelling rationale, the real justification for making subsidized guardianship available lay in the benefits for children and those families who have stepped up to care for them. Even the best functioning bureaucracies struggle to minimize the impact that serving an open child welfare case can have on family life. The intrusions that ongoing agency and judicial oversight impose on families may make sense as long as the time away from home is temporary and the plan for the children is reunification with parents. But once reunification is no longer an option and adoption is ruled out and safety has been assured, subsidized guardianship offers a cost-effective and proven alternative to retaining these children in state custody.

ENDNOTES

- ¹ McDonald, J., Salyers, N., and Testa, M. *Nation's Child Welfare System Doubles Number of Adoptions From Foster Care*. Chicago, IL: Fostering Results, October 2003. Available online at <http://www.fosteringresults.org>.
- ² Technically, the statute calls for the 15 month clock to being no later than 60 days after removal. States may have differing practices so that a child is technically in care for up to “17” of 22 months rather than “15” months. In this report, we will reference this provision as 17 of 22 months.
- ³ The number of children in foster care in excess of 17 of 22 months on September 30, 2002 whose parent’s rights have not been terminated. Based on data from the *Adoption and Foster Care Analysis and Reporting System (AFCARS)* 2001. These data were made available by the National Data Archive on Child Abuse and Neglect, Cornell University, Ithaca, NY, and have been used with permission. Data from AFCARS were originally collected by the Children’s Bureau. Funding for the project was provided by the Children’s Bureau, Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services. The collector of the original data, the funder, the Archive, Cornell University and their agents or employees bear no responsibility for the analyses or interpretations presented here.
- ⁴ The number of children in foster care in excess of 17 of 22 months on September 30, 2002 whose parent’s rights have not been terminated and who are living in the foster homes of relatives.
- ⁵ Garnier, P.C. & Poertner, J. (2000). Using administrative data to assess child safety in out-of-home care. *Child Welfare*, 79 (5), 597-613.
- ⁶ Scannapieco, M., Hegar, R., & McAlpine, C. (1997). Kinship care and foster care: A comparison of characteristics and outcomes. *Families and Society*, 78 (5), 480-488.
- ⁷ *Fostering Results* thanks Elliot G. Smith, Associate Director of the National Data Archive on Child Abuse and Neglect for his assistance in developing the programming logic for the analysis.
- ⁸ Seven states requested waivers for subsidized guardianship in 2004. Two states—Wisconsin and Minnesota—were granted waivers. Additionally the Kinship Caregiver Support Act was introduced in the Senate in July of 2004 and House Resolution 1534 was introduced in April of 2003. Both pieces of legislation would allow federal dollars to be used to support guardianship placements for children living with relatives.
- ⁹ Westat (2003) Appendix D, Evaluation of the Illinois Subsidized Guardianship Demonstration, Final Report. Chicago, IL, Illinois Department of Children and Family Services. See <http://cfrcwww.social.uiuc.edu/pubs/Pdf.files/sgfinalreport.pdf>; School of Social Work, University of Maryland (2003). Maryland Subsidized Guardianship Demonstration Project Evaluation, Final Report. Maryland Department of Human Resources, Baltimore, MD.
- ¹⁰ 42 U.S.C. 675
- ¹¹ Children’s Defense Fund and Cornerstone Consulting Group. *Expanding Permanency Options for Children: A Guide to Subsidized Guardianship Programs*, 2003 and *Using Subsidized Guardianship to Improve Outcomes for Children: Key Questions to Consider*, 2004.
- ¹² 42 U.S.C. 675
- ¹³ Special analysis of AFCARS 1999 and 2001. Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign.
- ¹⁴ U.S. Department of Health and Human Services, Administration for Children and Families (1995). Child Welfare Demonstrations Pursuant to Section 1130 of the Social Security Act, Title IV-E, Title IV-B of the Act: Public Law 103432. *Federal Register*. Volume 60, Number 115, Thursday, June 15, 1995: 31478-31483.
- ¹⁵ The indicator, 17 of the most recent 22 months was used rather than the statutory time frame for initiating termination of parental rights proceedings at 15 of the most recent 22 months since the AFCARS system cannot determine the dates the child is considered to have entered foster care as defined in the regulation. We used the outside date for determining the date the child is considered to have entered foster care which is 60 days form the actual removal date.
- ¹⁶ Reductions in the number of children in long-term, relative foster care, as indicated by negative percentage changes, are consistent with the movement of children to permanence. Although data limitations prevent drawing definitive conclusions about the effect of federally subsidized guardianship programs on foster care reductions, declines are generally more common in states with such programs.
- ¹⁷ Arizona’s program became available using state funds in 1999. The program began using a combination of state dollars and TANF fund in 2000.
- ¹⁸ California’s KinGap program commenced on January of 2000.

ENDNOTES Continued

- ¹⁹ Colorado began offering a TANF-funded guardianship program in 2002.
- ²⁰ Delaware's waiver expired and it is not currently adding new children to the program. All children who received subsidies under the waiver program continue to receive subsidy through state funds.
- ²¹ Georgia began offering TANF-funded guardianship in April of 2001.
- ²² While Indiana has previously used a TANF-funded guardianship program which began in July of 2001, the program was temporarily suspended.
- ²³ While Iowa has the option to pay subsidies using state dollars, the program has never been funded.
- ²⁴ Kansas began using a state-funded guardianship program in December of 2001.
- ²⁵ The subsidized guardianship program in Kentucky is not available for children in foster care.
- ²⁶ The subsidized guardianship program in Louisiana is not available for children in foster care.
- ²⁷ The waiver program in Montana began in September of 2001.
- ²⁸ The TANF-funded program in Nevada is not available for children in foster care.
- ²⁹ The subsidized waiver program in New Mexico was first available to Indian Tribes in July of 2000 and for state children in April of 2001.
- ³⁰ Ohio's numbers, as reported through AFCARS, may be small because the state does not exempt relative placements from the requirement to aggressively pursue permanency after extended stays in foster care.
- ³¹ Oklahoma's TANF-funded subsidy program has been available since December of 2000.
- ³² South Dakota runs a limited subsidy program using money from the Social Services Block Grant.
- ³³ U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *Profiles of the Child Welfare Waiver Demonstration Projects*. Prepared by James Bell Associates, May 2004.
- ³⁴ Testa, M. (2002). Subsidized Guardianship: Testing an Idea Whose Time Has Finally Come. *Social Work Research*, 26, (3), 145-158;
- ³⁵ Most of the decline is related to changes in California's long-term, kinship care population.
- ³⁶ Center for Social Services Research (2004). *The Implementation of California's Kin-GAP program: Trends and Recommendations*. Berkeley, CA: University of California at Berkeley. See http://cssr.berkeley.edu/childwelfare/pdfs/KGAP_Sheet_1.pdf
- ³⁷ Children's Defense Fund. *States' Subsidized Guardianship Laws at a Glance*. Washington, DC: Children's Defense Fund, 2004.
- ³⁸ U. S. Department of Health and Human Services, Administration on Children, Youth and Families, Children's Bureau. *Profiles of the Child Welfare Waiver Demonstration Projects*. Prepared by James Bell Associates, May 2004.
- ³⁹ Ibid.
- ⁴⁰ University of Maryland (2003). Maryland Subsidized Guardianship Demonstration Project Evaluation, Final Report. Maryland Department of Human Resources, Baltimore, MD.
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- ⁴² Pew Commission on Children in Foster Care. *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care*. Washington, D.C., May 2004.
- ⁴³ For more on rule out provisions, see Cohen, Leslie, *How Do We Choose Among Permanency Options: The Adoption Rule Out and Lessons from Illinois*, in Children's Defense Fund and Cornerstone Consulting Group, *Using Subsidized Guardianship to Improve Outcomes for Children: Key Questions to Consider*, 2004.
- ⁴⁴ Children's Defense Fund. *States' Subsidized Guardianship Laws at a Glance*. Washington, DC: Children's Defense Fund, 2004.

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