



PENNSYLVANIA  
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# KINSHIP CARE IN PENNSYLVANIA: CREATING AN EQUITABLE SYSTEM FOR FAMILIES



Family connection provides one of the most important contributions to the development and identity of children. A child's family connections help them grow and thrive, provide them identity and security, and are a critical link to culture and traditions.

**When experiencing difficult times, family members can support each other in ways no one else can, with the shared goal of keeping the family intact and connected.**

When a child's life is disrupted, calling on the support of family is custom in most communities and can be a great source of comfort for both children and the family.

This is especially true for children and youth who are experiencing abuse, trauma or neglect. Enlisting the support of kin can proactively prevent a child's formal involvement in the child welfare system, or removal from the home in the first place. If it is necessary for the child to be removed, placement with kin can reduce the trauma of removal by providing continuity of care and connections to their family and community. Removing children from the home of their parents or caregivers should always be the decision of last resort, but if it is necessary to ensure safety, placement considerations should first be with kin – blood relatives and those by marriage or adoption, a godparent or member of the child's tribe – who have a significant relationship with the child or the child's family.<sup>i</sup> Research shows that compared with children in non-relative care, youth placed with kin experience better outcomes in the following areas:

- Placement stability;
- School stability and positive educational outcomes;
- Reduced re-entry into the child welfare system;
- Permanency through reunification, adoption or guardianship;
- Better physical, behavioral and mental health outcomes;
- Increased likelihood of living with or staying connected to siblings; and
- Greater preservation of race and cultural identity, including community connections.<sup>ii</sup>

**Unfortunately, not all children who enter foster care are afforded the opportunity to be placed with kin or allowed to maintain these critical kinship connections. In fact, of the more than 24,000 children placed in the Pennsylvania foster care system in 2019, only 38% were placed with kin.<sup>iii</sup>**

Informally, kin caregivers often intervene without the need for formal child welfare involvement. Nationally, 2.7 million children are being raised by grandparents or kin, informally, without a parent residing in the home.<sup>iv</sup> But services and supports for kin differ significantly depending on involvement with the child welfare system or raising the child informally without support.

Far too often, kin are arbitrarily disqualified for placement and licensure as formal caregivers due to outdated practices and policies, implicit bias in decision-making or if kin are not provided adequate supports and services to stabilize and sustain the placement. In fact, if formal placement with kin disrupts, the child is more likely to enter a congregate care setting, such as an institution or group home, and less likely to be placed in another kinship home. Children with a higher level of needs, such as mental or behavioral health care needs, are not always provided with adequate services to support them in the family-based setting, leading to placement disruption. Most formal kinship foster parents are not provided with the option to become therapeutic foster parents for the related child. While Pennsylvania has made great strides in ensuring family preservation, placement with kin and the maintenance of kinship connections, there is an opportunity to identify strategies to increase these outcomes and become a national leader in putting families first. Concrete policy solutions can improve this trajectory, making Pennsylvania a model for other states.

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## POLICY RECOMMENDATIONS

- ✓ Update policies, regulatory practice and bulletins to eliminate unnecessary barriers to identify, locate and license kin as caregivers through the child welfare system. Provide additional guidance to county child welfare agencies on the types of licensing waivers that are allowed under the new waiver policy and provide an appeal process that is unbiased and provides kin the decision in writing. Clarify how and whether prior contact with child protective services, particularly prior general protective services reports, may be used as a basis to deny kinship placements, taking into consideration the historic and ongoing surveillance and over-reporting of families of color. All policy changes should be driven through a racial impact analysis to dismantle practices that discriminate against kin of color.
- ✓ Conduct further research and identify strategies and policy solutions to better support informal kin outside of the child welfare system. This would include implementation or expansion of services and other financial supports, as well as ensuring caregivers receive clear communications about what services are/are not available to them in their specific situation.
- ✓ Invest in high-quality legal representation to serve children, youth and families from a preventive approach (prior to court involvement) and through the dependency process. This can be achieved through a phased-in approach of utilizing county child welfare agencies that have already invested in this process as models to other counties.
- ✓ Increase statewide data collection on family finding efforts, all identified kin, outcomes of kinship approval and denial, waiver practices, placement and contact with siblings, kinship diversion and use of safety plans, and permanency in these placements. All data should be disaggregated by race, ethnicity, age and county.
- ✓ Implement strategies from other states that have proven to stabilize families and increase family connections and placement.
- ✓ Conduct roundtables regionally to gain the lived experiences and expertise on developing future policy or legislation. These groups should be representative of youth, parents and kin of varying geographic regions, races, ethnicities, and formal/informal caregiving.



## HOW THE CHILD WELFARE SYSTEM WORKS IN PENNSYLVANIA

The purpose of the child welfare system is to investigate allegations of abuse and neglect, find ways to support and stabilize families, and determine ways to mitigate risks to child safety. More than 44,000 reports of child abuse were received by child welfare agencies in 2018, with a 50% increase in a 5-year period.<sup>v</sup> Child abuse referrals are prompted by calls from mandated reporters who have concerns with abuse allegations, such as emotional, physical or sexual abuse. Less severe reports, referred to as General Protective Services (GPS) referrals,<sup>vi</sup> include allegations such as homelessness, inability to meet basic needs, truancy or other concerns not meeting the definition of child abuse. In 2018, GPS referrals accounted for over 160,000 of the calls made to ChildLine, the state's abuse reporting system, and outpaced abuse referrals by almost four times.<sup>vii</sup> Neglect referrals impact families of color more often than white families, and correlate to other non-abuse issues that can be addressed by community-based interventions rather than formal child welfare involvement. Home visiting, family support centers, outpatient mental health and drug and alcohol services are examples of services which can be provided in the community, without the formal need of child welfare agency involvement.

When a call is made to ChildLine, the county child welfare agency is required to review the allegations and determine if intervention is necessary to ensure the safety of the child or children. This is outlined by state statute under the Child Protective Services Law. Even if an investigation is required, and intervention is necessary, the county agency is required to serve the family in the least restrictive way possible to keep the family intact while offering in-home services. In 2018, almost 190,000 children and families were provided with in-home services through the child welfare system, with a primary goal to stabilize and prevent placement.<sup>viii</sup> In-home services are often parenting, mental/behavioral health, and substance use services contracted by the child welfare agency.

However, it is not always possible to keep parents and children together, especially when it relates to child safety. When out-of-home placement is required, the system should always seek to ensure the least restrictive placement as possible to meet the child's and family's



needs. As noted above, the first option should always be with kin, because they offer invaluable connections to the child, such as community, race, religion or ethnicity.<sup>ix</sup>

The 2019 state-level report of Adoption and Foster Care Analysis Reporting System (AFCARS) provides details on formal foster kinship caregiving in Pennsylvania.<sup>x</sup> Of the more than 6,000 children placed with a relative, representing 38% of all children in foster care, almost 70% are children under the age of 11. In 2019, only 13% of children adopted from foster care were adopted by relatives, and another 13% exited to guardianship with formal kin (the difference being in guardianship the biological parent can still regain custody of the child whereas in adoption that ability is terminated). When a child exits the child welfare system to permanency – into arrangements such as adoption or guardianship - younger children were more likely to be adopted and older children experienced higher rates of guardianship. These children spent on average over 17 months under the jurisdiction of the child welfare agency prior to exiting to guardianship, which is longer than the national average of over 15 months. Compared to white children, Black and Hispanic children are less likely to exit to permanency with kin.

## FORMAL AND INFORMAL KINSHIP CAREGIVING IN PENNSYLVANIA

Formal kinship care arrangements are formalized through the dependency courts and child welfare agency. In Pennsylvania, this can take the form of kinship foster care or by finalizing permanency through adoption or guardianship (permanent legal custodianship). In these situations, the child has formally entered the care and custody of the child welfare agency to be placed with a kinship caregiver, who is then provided a range of financial and non-financial supports depending on the arrangement chosen. Formal supports include a per diem for the care of the child and access to in-home and permanency services provided by the child welfare agency. If, after several months, it is determined that the child cannot safely be reunited with the parents, the family court will proceed with an alternative permanency option, such as guardianship (permanent legal custodianship) or adoption, either with or without a subsidy for continued financial support.

Under informal kinship care, kin often have no formal support and must navigate federal, state and local systems alone to ensure the children they are caring for have essentials like health care, educational resources, and mental and behavioral health support. And, far too often, they do not receive any, or extremely limited financial assistance to do so.

Most kin caregivers raise children informally without the involvement of the child welfare system. At times this is a conscious decision by the kin and other times they are unaware of the option to care for the child formally with more structured supports. Many factors contribute to this decision, including:

- the ability to financially support the child independently,
- not wanting the intrusion of government,
- not wanting the child to be labeled as a foster child,
- fear of jeopardizing their relationship with the child's biological parents and their own children,
- prior negative experiences with a child welfare agency, or
- utilizing private custody courts without the need for dependency.

The involvement of the child welfare system often requires a dependency case to be opened, which the agency may refuse to do if the children are not at risk of abuse or neglect because they are currently safe with a kinship caregiver. At times, the child welfare agency may not discuss the various caregiving options and supports with the kin caregiver or

## WHAT KINSHIP GRANDPARENTS ARE SAYING

*"The greatest thing about caring for my granddaughter was the joy and overwhelming, never-ending love I felt for and from her."*

*"I think people need to know that [kinship caregiving] is something they really want to do, because there's a lot of stress behind it. Being a kinship care grandparent is not easy. There is a lot of responsibility behind it. It's like raising your child all over again – you are responsible for their well-being, their everything – but it's more tedious than your own child, because with them being in the court system, there's a lot of challenges with it. If he gets hurt or anything, or misses appointments, it all comes up. It's a lot more responsibility."*

assess the stability of the placement and will choose to simply close the case; this is referred to as kinship diversion.

Additionally, sometimes the child welfare agency intervenes to informally transfer custody to a kin caregiver rather than seeking dependency and proceeding with a licensed kinship placement. This practice raises concerns about a phenomenon called "hidden foster care," where agencies intervene and coerce custody transfers without providing parents and children the due process to which they are entitled, and depriving families of the opportunity for financial kinship support, reasonable efforts at reunification with the parent and meaningful judicial oversight.<sup>xii</sup> Despite the issuance of guidance on safety planning and due process by the state, practice remains inconsistent across the Commonwealth. Nevertheless, while "hidden foster care" raises significant concerns, family-led informal kinship arrangements may best suit the needs of some families and may be properly chosen by the family absent duress or coercion from the county agency.

To better serve informal kinship caregivers,



Governor Wolf signed Act 89 of 2018 into law.<sup>xiii</sup> This established the Pennsylvania KinConnector program, an information and referral system that connects kin with trained navigators who help them access federal, state and local resources to best assist them with the needs of caring for a child. In addition, the KinConnector program offers training and support groups to connect kin with a network of other individuals with similar experiences.

# CURRENT POLICIES AND PRACTICES

Formal kinship care approval and licensure is governed by state statute, regulation and bulletin. With a state supervised, county-administered system, localities have great latitude in developing their own independent processes to conditionally approve and/or license kinship caregivers as formal foster parents within the broad construct of these state policies. However, there are varying practices that often create unnecessary barriers or bias that can impact outcomes for children being placed in family-based settings. Identifying and dismantling these historically discriminatory practices will ensure that children can grow and thrive in community-based settings and avoid unnecessary placements in higher levels of care, such as group homes and shelters.

## Statutory and Regulatory Provisions and Practice for Formal Kinship

Preference for child placement with kin is a practice that is promoted federally and locally. The Fostering Connections to Success and Increasing Adoptions Act of 2008 codified the requirements for child welfare agencies to give preferential consideration to relative and non-relative kin when a child needs to enter out-of-home placement.<sup>xiii</sup> In Pennsylvania, this is further identified in statute through the Human Services Code, in subsections identified as Family Finding and Kinship Care.<sup>xiv</sup> As required by state law, child welfare agencies must take appropriate steps to identify, locate and offer placement to kin prior to other formal placement types.

The Title 55, Chapter 3700 regulations outline the primary requirements for approving resource parents, which include both stranger foster care and kinship care.<sup>xv</sup> There is no delineation between foster and kin approval for licensing standards. While foster parents are recruited, trained and licensed prior to having a child placed with them, kinship caregivers can be “conditionally approved.” This conditional approval allows for the child to be immediately placed with kin if they pass preliminary requirements, and then are provided 60 days to complete formal licensure. This pre-approval process allows counties to bypass certain licensure requirements with abbreviated assurances, such as verbally obtaining child abuse and criminal clearances and conducting a condensed home study. While not specifically outlined in regulations, community or county agency contracted

services can be provided to children, youth and kin caregivers to provide the needed supports for family-based caregivers. These support services are important to help children and kin deal with the trauma of the placement and support the child’s ongoing needs.

However, the 3700 regulations are outdated and have multiple requirements that are subjective and open the door to bias and discrimination in decision-making for conditional approval and licensure. Although the assessment of the suitability of a home for a child must be made on a case-by-case basis to ensure the safety of the child and the proposed caregiver’s ability to meet their needs, the lack of formal guidance can promote subjectivity in decision-making, which exists in these regulations:

- 3700.62(b): Foster parents must pass appraisal to establish that the foster parents are physically able to care for children and are free from communicable disease.
- 3700.64(a)(2): Assessment of the foster parent capability which includes a demonstrated stable mental and emotional adjustment. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the agency shall require a psychological evaluation of that person before approving the foster family home.
- 3700.64(b)(1): Determining the existing family relationships, attitudes and expectations regarding the caregiver’s own children and parent/child relationships, especially as they might affect a foster child.
- 3700.64(b)(3): The caregiver’s ability to care for children with special needs, such as physical handicaps and emotional disturbances.

Factors that are not specifically defined, such as determining if a kinship caregiver is “physically able” or demonstrates “mental and emotional adjustment,” allows each of the 67 counties to determine their own indicators for meeting such criteria. Without casework staff having expertise in the fields of medicine or mental health, for example, this can lead to a response of automatic disqualification of an appropriate caregiver based on personal beliefs or assumptions.

## DISQUALIFICATION CASE STUDIES

### Darcy

*Darcy was caring for her grandchild prior to the child welfare agency becoming involved. In fact, Darcy was the one to make the referral due to the concerns for her grandchild. What she did not know is that a GPS report on her from 10 years ago, related to her daughter's delinquency as a teen, would result in her disqualification for kinship and the removal of her grandchild from her care.*

### Mary

*Mary was disqualified by a child welfare agency for a GPS report from 9 years ago when she placed her daughter in a facility for mental illness – despite her daughter being released from the facility back to her care, Mary was classified as an inappropriate caregiver for her grandchild.*

## Appeal Process or Lack Thereof

When a kinship caregiver indicates a willingness to be a resource for a child in need of out-of-home placement, the county agency must provide notification of the decision to approve, conditionally approve or deny the caregiver for placement and licensure. This notification must be in writing and inform the caregiver of their right to appeal. From there, the responsibility lies with the caregiver to respond within 30 days of notification, in writing, to the agency with their intention to appeal. Under regulation, the agency then has 15 days to determine if it can resolve the appeal independently, and if not, it will then be sent to the Office of Hearing and Appeals.

Far too often, kinship caregivers are not provided written documentation of the denial to be a licensed caregiver. Kin are often disqualified by the agency without being formally considered. Many kin are not told why they have been denied. There is no process for kin to request a review of the agency's denial other than to try to contact the agency's complaint line, which kin often find futile. Very few kin are granted review by the court, as dependency proceedings are commonly closed to the public. Some grandparents can file a motion to intervene, but few have the know-how to do so effectively without the assistance of counsel, and even then, might not have the means to obtain it.

## County agencies should not automatically disqualify kin but should work with them to provide needed support to alleviate non-safety related barriers.

One of the leading disqualifiers reported by kin caregivers is their prior history of child welfare involvement. Prior history of GPS referrals, which are often due to neglect or poverty, are not legal or regulatory barriers to kinship approval. However, counties are given great latitude in identifying a family's prior history and determining if they are appropriate to care for other children. While only safety-related reasons should be indicators of disqualification, counties can refuse to license a kinship home based on that family's history of child welfare system involvement. For example, counties can refuse to proceed with a kinship home placement for reasons such as truancy of prior children and homelessness. This should not be the case if the individual is able to provide care for a child presently. Similarly, nothing requires the agency to consider if the previous child welfare involvement resulted in the reunification of an individual with their children who were removed. If we believe that people can change or that their history is not representative of their current situation, we should not hold earlier situations against them when deciding future placement decisions. It is also critical to understand a history of GPS reports in the context of the historic and ongoing surveillance and over-reporting of families of color.

Within the regulations, non-safety factors can be waived by the state to allow child placement. For example, the regulations call for a maximum number of children allowable to be in the home when considering placing additional children. County agencies can request a waiver to that maximum if, for example, it will allow a sibling group to remain together. Waiver processes can be a conduit to eliminating barriers to kinship placement. The state issued a formal written waiver process and posted it publicly in 2020.<sup>xvi</sup> The challenge with this waiver process is there is no guidance for county agencies on what substantively should or should not be presented in a waiver, nor is there any identification of a process for kin to be notified or how to appeal a decision.



## UNNECESSARY DENIAL CASE STUDY

*Naomi was disqualified due to a 30-year-old criminal conviction for welfare fraud. The worker insisted Naomi identify another family member to take her grandchildren – whose mother had overdosed and whose father was in jail – so they would not end up in a stranger’s foster home. Naomi never received written documentation of her denial and was unable to request review, despite the children ending up with a distant cousin with whom the children were not close.*

### State Kinship Bulletins and Policies

Pennsylvania bulletins serve as a roadmap for county agencies to follow state statutes and regulations. Bulletins guide organizations on decision-making and provide the rationale for why they should follow the recommended actions. The Office of Children, Youth, and Families has many bulletins that direct counties in their policies and protocols, found in *Pennsylvania Bulletin*.

The primary bulletin that relates to kinship caregiving while in agency custody is the Kinship Care Policy bulletin issued in 2003, which defines formal and informal kinship care and establishes policies and procedures to follow when considering kinship families as potential placement resources for children. Next, regarding relevancy, is the Child Placements with Emergency Caregivers bulletin which defines the procedural steps an agency must follow if it is placing a child in a potential kinship home in an emergency.<sup>xvii</sup> There also are indicators the caregiver must demonstrate to be considered as an emergency placement option and qualify for full foster care licensure. However, this bulletin, drafted in 2004, is considerably outdated and provides an opening for counties to utilize personal belief systems when making decisions on whether a caregiver may be appropriate or can be disqualified. Like the Chapter 3700 regulations, there are indicators that are not adequately defined and are considerably subjective in a county’s determination, such as if the caregiver’s health or commitments outside the home may impact their ability. Incredibly subjective and non-defined questions can be interpreted in several ways. Prior history such as neglect or domestic violence, which may have been remediated but can still be used in a county’s decision making, can automatically disqualify an appropriate caregiver.

When kin are given written documentation indicating that they are being denied the ability to be a formal placement resource, they often do not realize that they must provide their appeal to that decision in writing. The first method for appeal is typically at the county child welfare agency level, where the county agency will attempt to remedy the issue independently. The challenge with this level of response is that the agency who is denying them is the same agency who is reviewing their appeal; the county agency is unlikely to change that decision. If the appeal is not resolved at the county agency level, the complaint is to be sent to the state’s Bureau of Hearings and Appeals (BHA) within the Department of Human Services. It is unclear how many appeals are sent to BHA, and how many of those have been overturned or upheld, as well as overall placement outcomes, as this data is not publicly available.

Caregivers can also file complaints by notifying the state and having a regional office representative investigate. However, the regional office is typically looking for a violation of state regulations, not whether the decision was appropriate. If the regional office identifies a deviation from regulation, it cannot mandate the county child welfare agency to take a specific action but can only make a recommendation. While county agencies may not violate a regulation, they may make decisions that are not in the best interest of a child. In many cases there is no redress for a kin caregiver as well as for the child who may remain in foster care when a kinship placement is possible and in their best interest.

To compound this problem, there is limited guidance for judicial decision-making regarding identifying the most appropriate kin placement for a child. While the Rules of Juvenile Court Procedure require that the court take an active role in ensuring the provision of family finding services, potential kin caregivers do not have a right to be heard in dependency cases, and, as a result, dependency judges may not be made aware of unwarranted kinship denials. There also is no clear mechanism in the Juvenile Act or in the Rules of Juvenile Court Procedure for the court to resolve competing kinship licensing requests. As a result, in practice, county agencies have broad discretion to deny kinship altogether or to select one kinship resource over another without careful consideration as to which resource is preferred by the child and parent or is best situated to advance the case plan goal of reunification.

## IMPACTS OF COVID-19

The impact of the COVID-19 pandemic has led to dramatic shifts in child welfare practice. As stay-at-home orders were implemented, essential child welfare workers had to modify their work procedures, as did service providers offering in-home services and courts that oversee dependency cases. While necessary to ensure the safety of agencies' employees and their clients, these protocols have had unintended consequences that will be felt for the next several years. This is especially true for family stabilization efforts and children entering placement. In addition, the pandemic reinforced that placement in family settings, ideally with kin, is important for child and adolescent health and development. Young people placed in group care during the pandemic are most at risk for contracting COVID-19 and lack access to many of the protective factors and social supports that are vital to surviving this public health crisis.

**Perhaps one of the greatest challenges presented by the pandemic is related to restrictions on in-person contact with children. While social distancing is critically important to limit the spread of the virus, reduced contact with vulnerable children and families impacts the ability of caseworkers, attorneys and court personnel to fully assess the child's well-being.**

Virtual court proceedings have presented unique challenges for adequate participation from nonverbal youth and young infants. Also, foster youth who are participating in court proceedings from a placement location may be reluctant to openly share their concerns about that placement if they have no private location from which to testify. Court personnel are unable to adequately assess a youth's well-being if that youth is not able to access technology or unable to use technology based on age or ability. The Pennsylvania Rules of Juvenile Court Procedure require a child to appear in person at least every six months, with an exception to be granted only upon a finding of good cause.<sup>xviii</sup> As the pandemic drags on, many youth already have gone more than six months without in-person court proceedings. In addition to virtual court proceedings that do not allow for in-person court assessments, caseworkers also have been granted a reprieve from obligations of mandatory in-person contact



with children who are under court supervision. The federal government released a directive in April 2020 that not less than 50% of total monthly caseworker visits should occur in the residence of child. But during the major disaster period, the agency may include monthly caseworker visits that occur by video conferencing as “in the child’s residence.”<sup>xix</sup> Many residential facilities and foster care agencies have restricted visitor access to children due to infection concerns. Residential facilities have even restricted some staff to remote work, leaving less in direct contact with children.

Another consequence of the pandemic has been the hindering of the county agencies' ability to inspect, review and approve prospective kinship placements, as well as the provision of services for family preservation. With COVID-19 restrictions in place, many home inspections were halted due to government offices being closed. If case workers are not allowed in prospective foster homes for inspection, there will be fewer approved foster and/or kinship homes becoming available in the future. Additionally, fingerprinting backlogs due to office closures have been an obstacle for prospective foster families and kinship caregivers to receive approval.

Furthermore, child welfare agencies will need to provide a variety of resources to caregivers so that they can effectively support young people in their care during COVID-19 and beyond. Adequate support to kinship

placements may include additional stipends for food and utilities if a caregiver becomes unemployed. Access to technology for families to connect with schools and doctors, is also an essential support that youth and families in kinship arrangements must receive.<sup>xx</sup> The Annie E. Casey Foundation suggests forming partnerships with local departments of aging, such as the network of Area Agencies on Aging located across Pennsylvania, to provide resources to support grandparents and elderly kin caregivers.

**A successful kinship placement for a child will result in reduced burden on the child welfare system, but the placement must have adequate support provided for the placement to succeed.**

## COVID-19 IMPACT CASE STUDY

*A 12-year-old youth was living in an emergency shelter congregate care facility for an extended period while the agency searched for kinship caregivers. A grandmother presented herself as resource but needed to complete the requisite background checks to be approved as a kinship care provider. Due to office closures the background clearances were backlogged, resulting in the grandmother and an additional household member being unable to quickly obtain required clearances. The child remained in a congregate care setting for months until an emergency kinship placement was approved by the court.*

Prior to the COVID-19 crisis, grandfamilies faced barriers to housing, health care, food and financial assistance. The current crisis has heightened the fragility of these households<sup>xxi</sup>. Specifically, families need support of access to health care, financial and housing assistance, technology, and other personal supports.<sup>xxii</sup>



# ROLE OF THE COURTS AND LEGAL PROFESSIONALS

Courts and legal professionals play a powerful role in ensuring that children are placed with kin if they must be separated from their family. At the national level, the National Council on Juvenile and Family Court Judges (NCJFCJ) has partnered with the American Bar Association and the Annie E. Casey Foundation to create a tip sheet for identifying and resolving barriers to kinship placement.<sup>xxiii</sup> In Pennsylvania, county agencies and the courts have benefitted from the efforts of the Administrative Office of Pennsylvania Courts, Office of Children and Families in the Court, which has taken a leadership role in integrating family finding and kinship care into legal practice. While many important efforts are underway, several effective strategies could be expanded and strengthened across the Commonwealth.

## High-Quality Legal Representation

High-quality legal representation for parents and children is an essential strategy to ensure that children are placed quickly with kin when removal is necessary. Attorneys for parents and children are often in the unique position to gain the trust of the individuals they represent, bringing families in crisis together while at the same time leveraging the legal expertise needed to resolve court and agency barriers to kinship placements. Both are also positioned to bring to the attention of the court alternative kinship resources who may be a better placement

resource for the child, despite the child welfare agency's decision to place the child elsewhere.

The federal government has recognized the unique benefits that legal representation can have on families, and in 2017 issued an Information Memorandum (IM) encouraging all jurisdictions to invest in high-quality legal representation at all phases of child welfare proceedings.<sup>xxiv</sup> The federal IM further recognized multi-disciplinary legal representation models—models that pair attorneys with social workers and peer advocates—are most likely to support positive outcomes for families. Recently, federal reimbursement was made available for the costs of parent and child attorneys, as well as their multi-disciplinary teams.<sup>xxv</sup>

In addition, research confirms that investing in high-quality legal representation can significantly strengthen kinship practice. In New York City, a landmark study found that when parents received high-quality, multi-disciplinary legal representation, children were released to relatives twice as often in the first year of a case.<sup>xxvi</sup> Data released by Community Legal Services of Philadelphia (CLS), which offers multi-disciplinary legal representation for parents involved in the child welfare system, shows that the children of parents for whom CLS advocated were significantly more likely to experience kinship placements than other children in the jurisdiction. Among clients with children living in a family-like setting (rather than a group or institutional placement), the overwhelming majority (77%) were in kinship care, compared with a city average of 56%.<sup>xxvii</sup>

## Family Group Decision-Making

Family group decision-making, a meeting that allows parents and children to identify their natural support system of relatives, neighbors or family friends, is another key strategy that agencies and courts can use to engage family and increase kinship placements. These individuals are then invited to work together with the parent and child to come up with a plan to stabilize and strengthen the family. This decision-making process is unique in that it encourages families, rather than professionals, to take the lead in problem solving.



## KINSHIP CUSTODY CASE STUDIES

### Ted

*Ted has been raising his two grandchildren for the past 3 years and has ongoing concerns about the parents' ability to care for the children and keep them safe. The parents have started coming around saying they will take the children from Ted. Ted cannot legally withhold the children from their parents, unless he has a court order stating otherwise. Ted wants to file for custody but cannot afford an attorney.*

### Janette

*Janette's grandson lives with her and needs his wisdom teeth removed. While the dentist has allowed her to continue her grandson's routine care after the mother had given her consent years ago, without a parent's consent for surgery, the dentist refuses to do more invasive care. Janette has lost touch with the mother and cannot afford an attorney to help her figure out how to file for custody.*

Families are empowered to identify a plan that is tailored to their needs, including but not limited to identifying recommended kinship placements and offering support with transportation, after-school care, housing and preparing meals, among others.

### Family Finding

Family Finding is a practice now required by state law that must occur at least once a year until the child achieves permanency. Agencies must not only seek to first place children with relatives when separation is necessary,<sup>xxviii</sup> they must also search for and engage kin in service planning and delivery, and also seek to gain commitment from kin to support children and parents.<sup>xxix</sup> Additionally, the Rules of Juvenile Court Procedure require that the court must take a proactive role in each hearing to ensure that the agency has met its obligation to support meaningful family finding.<sup>xxx</sup> The Pennsylvania Dependency Bench Book, 3rd Edition, includes guidance on how judges and legal professionals can ensure meaningful family finding occurs, emphasizing that while the agency may take the lead on family finding practices, family finding is best understood as a shared responsibility among judges, legal and county child welfare agency professionals.<sup>xxxi</sup>

### Family Engagement Initiative (FEI)

The state Family Engagement Initiative is a project of the Administrative Office of Pennsylvania Courts, Office of Children and Families in the Courts that launched in select counties beginning in 2018.<sup>xxxii</sup> The project brings together many of the best practices in family engagement and family finding and has shown impressive early results in keeping children in their homes and with their families. It requires the agency to submit to the court a regularly updated Family Finding Report, which includes: a document identifying the child's connections among family, friends, school and community; a calendar showing the child's activities and connections; and a checklist identifying which family members have been engaged and how they are willing to offer support. These documents not only assist in building a strong network of family connection, including potential kinship placements, they also help all professionals including court personnel to

identify gaps in family finding and connection for children. Another key practice of the Family Engagement Initiative is the Rapid and Crisis Response Meetings, family-centered meetings that encourage parents and children to make an emergency plan to prevent family separation and to identify kin supports if removal is necessary.<sup>xxxiii</sup> Finally, the initiative works to enhance legal representation, another key strategy to increasing kinship placement.

### Permanency Barriers Project

The American Bar Association's Permanency Barriers Project, funded by Pennsylvania Department of Human Services, Office of Children, Youth and Families, helps to identify, analyze and correct the delays that cause lengthy waits for foster youth to achieve permanency. The Project focuses on improving court and agency relationships, streamlining the legal process and providing Pennsylvania-specific training. Areas of focus have included assistance with writing state policies that promote maintaining kinship relationships and prioritizing placement with kin, conducting regional and statewide kinship trainings and county-level assistance to improve kinship practice. The Project's work in Westmoreland County has helped to significantly increase formal kinship placements.

## LIVED EXPERIENCES

When suggesting the creation of new policies or modifying existing ones, it is important to listen to those who have lived experiences. The voices of those who are in or have been through the system must shape practice recommendations and ensure policies are effective and equitable. Youth, parents and kin who have been involved in the child welfare system can speak directly to the challenges experienced and are able to provide concrete information on the actions we can take to expand and better support kinship care arrangements. Young people, parents and kin must be included in the design of new law and policy and we must implement policies and practices that ensure that youth, kin and family are actively and meaningfully engaged throughout the permanency planning process in a variety of venues including at administration tables, before state and federal lawmakers and helping to inform and educate the judicial branch.

## KIN DENIED CAREGIVER ROLE CASE STUDY

*Jessica is an aunt to five nieces and nephews. Due to a serious tragedy, the mother and father of the children were no longer available to care for the children. All five were placed in foster care and separated into different homes. While Jessica indicated her intention to be a caregiver for the children, the agency has made several allegations to deny her, none of which are legal, or safety related. Jessica continues to fight to be a caregiver but does not have legal standing in court and nowhere else to turn. She has not had any visitation or phone contact with her nieces and nephews in over four months.*



# LIVED EXPERIENCES: YOUTH AND FAMILY PERSPECTIVES

## YOUTH PERSPECTIVE



In 2018, members of Youth Fostering Change (YFC)—an advocacy group program of Juvenile Law Center made up of youth with experience in foster care—issued a report and recommendations related to older youth permanency, [\*Tools for Success: A\*](#)

[\*Toolkit for Child Welfare Professionals to Achieve Permanency and Stability for Youth in Foster Care\*](#). In the report, YFC

addressed the significant struggles they collectively experienced in care and the need to increase connections with kin and relatives, including the rigorous enforcement of family finding, as one of their priority recommendations. Many of YFC's members left foster care without permanency and believed that it did not have to be that way. Most significantly, kin and family were not located and pursued during their time in care, and many found these supports after they aged out of the foster care system, which should have happened earlier.

The deep sense of loss is acutely felt. Youth reported that, “family separation causes trauma and grief and maintaining family connections is important for emotional health and well-being.” Many members also indicated that, “during time in care, the caseworkers didn't acknowledge our existing family.” Youth felt that if identified kin could not provide certain things—like placement—they did not get support to build or maintain those connections.

In the report, young people describe the following experiences related to connections with kin:

- Losing connections with siblings with no support to maintain those relationships.
- No assistance for maintaining relationships with relatives who could not provide placement.
- No support for maintaining relationships with relatives important to them, because the agency deemed those kin as bad influences.
- Constantly moving placements caused them to lose contact or limited their ability to build lasting relationships.
- Running away to be able to see biological parents or family members.
- Losing relationships with siblings upon being adopted or the adoption of their siblings.
- Experiencing anger, grief and loss from family separation, and struggling greatly to adjust, even in supportive placements.

## FAMILY PERSPECTIVE



More often than not, kin are at a financial and legal disadvantage because rarely do they plan to become a kinship caregiver, unlike

the planned nature of foster parenting. Kin also are connected to the family system, which is what makes them so valuable. At the same time, they also can be affected by the hurt, disappointment, anger, grief and loss that so often accompanies the issues that led to the need for the child to be placed with kin. They also must navigate the changing family dynamics as they take on a new role in their family system and can be viewed as being less available to other family members or blamed for “taking” the children from the parents.

As kin are thrown into a role they did not anticipate, they become overwhelmed by their new responsibilities and all the challenges they face as non-parent caregivers. When navigating the child welfare system, in formal placements they are suddenly accountable to a court and caseworkers and can feel judged for how they choose to run their families. This can include forms of discipline, who they allow into the home when the children are there, how many other family members can live in the home, and many other examples. And, as informal caregivers, they are overwhelmed with financial planning and ensuring the child in their care is enrolled in school, has dental, medical and mental health care and that other needs can be met, often with limited support networks and resources available to them.

Unfortunately, some kin never get the chance to experience the role of caregiver they presented themselves for because they are denied the ability by the child welfare system. This results in a far different set of stressors associated with loss and grief because they have no role in the future of their kin – the denial of kinship not only impacts the ability for the child and kin to live together, but also can result in lack of visitation and formal contact.

## STATE APPROACHES TO FORMAL KINSHIP CARE

Some states and jurisdictions have adopted unique approaches to increasing connections between children and youth and their kin, especially as it relates to formal kinship through the child welfare system. The ability to adopt these different approaches can subsequently impact the rates of utilization of formal kinship care from state to state. In fact, it is worthwhile to note that comparatively, Pennsylvania's rate of formal kinship placement fares better when looking at other county administered states, such as Virginia and Ohio. In that light, evaluating innovative solutions in other areas can be a method for our state to build on this rate and further maximize this placement option.

Implementation of policies and practices also vary depending on the type of child welfare system used by the state. Pennsylvania is a county-administered, state-supervised system, which means that each of the 67 counties have independent child welfare agencies which are then overseen by the state Office of Children, Youth, and Families within the Department of Human Services. Not all states have this model, and in fact, most states are state-administered. Whether county or jurisdiction-specific, or state-administered, these unique and interesting approaches can be policies that Pennsylvania can consider in its efforts to further expand formal kinship care placement.





## New York

### System Type: County-Administered, State-Supervised

The “[Blind Removal Strategy](#)”, originally implemented in Nassau County and starting its [statewide implementation](#) in New York in 2020, is a process that occurs when a child welfare agency recommends out-of-home placement for a child. A committee of child welfare professionals convene a case review to determine if there is enough cause to place a child away from their parents. While the caseworker presents information on the case, including assessment of risk, case history and family strengths, none of the identifiable information is offered. This includes withholding information on race and ethnicity demographics and other identifiable information that could lead to bias in the decision-making process. Results have included reduced rates of placement, especially for children of color. While just being implemented on a statewide level from a county pilot, this is an example where other county-administered systems can consider a similar approach in starting with something more localized and consider the option of scaling it in the long term if successful.

## Tennessee

### System Type: State-Administered

Tennessee’s [Kinship Exemption Request](#) policy, implemented in 2018, outlines required family finding attempts that must be made prior to the child welfare agency seeking approval to proceed with non-relative placement options. Included in the process is the use of kinship coordinators, who assist the worker with ensuring that all relative options have been located, contacted and exhausted. Additional layers of accountability are assigned to ensure that all efforts are made to place the child with kin prior to proceeding with approval for an exemption. While Pennsylvania has its own language around family finding practices in statute, it was last updated in 2013 and does not provide nearly the robust requirements contained in the Tennessee language. The Pennsylvania statute only requires an annual search for extended family members for a child while he or she has been accepted for services, in addition to the identification of extended family members willing to be short-term or long-term placement resources. It is not inclusive of further provisions such as kinship coordinator staffing support, language on ensuring all family finding efforts have been exhausted and ultimately the step of having to proceed only via an exemption approval in that situation. In this example, other states, including Pennsylvania, may want to consider broadening its own state law via a legislative amendment dependent upon the outcomes of the Tennessee policy implementation. Pennsylvania would need to consider how this would be adapted to be implemented county-by-county due to the structure of the child welfare delivery system.

## Connecticut

### System Type: State Administered

As a part of its Family First Prevention Services Act implementation planning efforts, Connecticut has developed a [Kinship & Foster Care Workgroup](#) and related [charter](#). Over several months, the state is looking at engaging kin and youth in the planning process and has adopted tangible deliverables and associated timeframes for informing policy. While Pennsylvania has a Family First Project Team and several related subcommittees, family-based placement has not been an area of its focus. It is expected that this work will be embarked upon as a subcommittee in the coming months and, in that event, stakeholders can look to the work being done in the Connecticut workgroup to see if any of the deliverables they have produced can be investigated for use in Pennsylvania.

## New Jersey

### System Type: State Administered

In June 2020, New Jersey updated its [waiver process](#) that outlines timelines for waiving non-safety regulations that are barriers to licensing kin. The policy further outlines how prior abuse and neglect allegations can be waived when appropriate and the amount of time needed for a response on the waiver. While Pennsylvania recently issued its own bulletin pertaining to licensing waivers in November 2020, it does not have any guidance accompanied to assist county child welfare agencies on decision making and is not specific to nor aimed at increased use of formal kinship placement.

## SERVICE NEEDS FOR KINSHIP CAREGIVERS

The services available to kin differ depending on whether they are formally approved by the child welfare agency or raising the child informally – informal caregivers must access available local and state resources independently, while formal kinship caregivers have access to some of those same community services in addition to the ability to access services provided by the county child welfare agency.

Providing accessible and high-quality services is important to making formal kinship arrangements possible and sustainable. Ensuring a robust array of general and specialized services is vital to increasing the use of kinship care in Pennsylvania. When kin step up to take on the care of a child, county agencies and communities should support and invest in that family. To increase the number of kinship care arrangements for youth in care so they can achieve permanency and to support kin who provide care informally, targeted services and supports should be implemented or expanded. Some of these services include:

- ✓ Targeted assistance so that kin can meet regulatory requirements to become an approved foster parent
- ✓ Respite care
- ✓ Crisis response
- ✓ Specialized clinical services for youth and families, including flexible and specialized trainings
- ✓ Case management and coordination, especially to ensure support for families with youth with special needs
- ✓ Eligibility for transition to adulthood services and supports
- ✓ Support groups for kin

## DATA COLLECTION

Publicly available data collection on outcomes that are disaggregated by race, ethnicity, age and region is key to forming policies that support keeping children with kin. This helps illuminate where disparities and gaps exist, whether that be for a specific population, geographic region, or age group. Unfortunately, statewide data surrounding family finding and kinship care is nonexistent. The state is not required to provide any data publicly to describe family finding efforts made by county agencies or the number of connections they located, connections to kin or siblings, approval or denial of kin or ways to support children in kin placements. While each of the 67 counties have their own case management system that collects a multitude of indicators, there is no current mechanism of requiring that information be provided to the state for analysis and public dissemination.

## CREATING A FAIRER SYSTEM FOR FAMILIES

Family connections that help children and youth thrive, provide identity and security, and tie them to culture and traditions are necessary for the healthy development of every child. When it comes to kinship care in Pennsylvania, the child welfare system must work harder to give every child or youth who must be removed from the home – particularly those who have experienced abuse, trauma or neglect the chance to remain with family or friends they know and trust. Placement considerations with kin who have a significant relationship with the child or the child's family always should be made first - whether with blood relatives or those by marriage or adoption, a godparent or a member of the child's tribe. Those kin connections mean better outcomes for children and youth down the road, and the Commonwealth should make it a priority to implement the recommendations set forth in this report, and strive to be a national leader in putting families first.

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## SOURCES

<sup>i</sup> “Kin” defined by 67 Pa. C.S. § 3102 as: “An individual 21 years of age or older who is one of the following:

- (1) A godparent of the child as recognized by an organized church.
- (2) A member of the child’s tribe, nation or tribal organization.
- (3) An individual with a significant, positive relationship with the child or family.”

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<sup>xix</sup> [https://www.acf.hhs.gov/sites/default/files/cb/stafford\\_act.pdf](https://www.acf.hhs.gov/sites/default/files/cb/stafford_act.pdf)

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<sup>xxx</sup> Pa. Rules of Juvenile Court Procedure 1149, <http://www.pacourts.us/assets/files/setting-1744/file-1968.pdf>

<sup>xxxi</sup> <https://ocfcpacourts.us/wp-content/uploads/2020/05/2-Ff-002494.pdf>

<sup>xxxii</sup> <https://ocfcpacourts.us/childrens-roundtable-initiative/family-engagement-initiative/>

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