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SUBMISSION OF THE NATIONAL COMMITTEE OF GRANDPARENTS FOR CHILDREN'S RIGHTS AND THE EMPIRE JUSTICE CENTER FOR THE JUNE 16, 2011 WAYS AND MEANS HEARING RECORD ON IMPROVING PROGRAMS DESIGNED TO PROTECT AT RISK YOUTH

**PRIVATE KINSHIP CARE:
AN UNDERUTILIZED CHILD WELFARE RESOURCE**

The reauthorization of the Promoting Safe and Stable Families Act (“PSSFA”) presents an opportunity to provide critical support to a vulnerable population of children and caregivers in private kinship care (grandparents and relatives caring for children, *i.e.*, extended families). Children live with grandparents and other relatives for the same reasons that children enter foster care: parental abuse, neglect, substance abuse, mental illness, abandonment, as well as for other reasons such as military deployment, incarceration illness, and temporary relocations.¹ These circumstances cause many kinship children to face special challenges, including higher rates of developmental disabilities,² emotional problems,³ physical and learning disabilities,⁴ bereavement issues, attachment disorders and parental alienation.⁵

Kinship care is not only this nation’s most valuable resource for children whose parents cannot successfully parent; it is also a less expensive and more effective resource for children than traditional foster care. Kinship care falls into the statutorily required categories of family support services and family preservation services, and thus should be eligible for PSSFA funds. In recognition of the important role of kinship care in preserving families, we make the following recommendations: (1) a portion of PSSFA funds should be set aside for research on temporary and voluntary placements with kin; (2) a cost benefit analysis of kinship programs; (3) kinship program evaluations; and (4) supportive services to kinship families. These actions would ensure greater utilization of our kinship resources and provide more effective care of children that is significantly less costly than foster care.

This discussion reviews the importance of private (“informal”) kinship care, notes its benefits for children at risk, and concludes that dedicated federal funding for research, evaluation, and support services is critical to the survival of this cost effective resource.

DEFINITION AND SCOPE OF KINSHIP CARE

Kinship care refers to full-time, non-parental care of children by grandparents, relatives, and sometimes family friends, without the assistance of parents. While the phrase kinship care is occasionally used as shorthand for kinship foster care, it applies both to public and private care. In an attempt to identify the distinction, the 2000 report to Congress on kinship care used the term “public kinship care” to refer to kinship foster (formal) care and “private kinship care” to refer to non-foster (informal) care.⁶

STATISTICS ON KINSHIP

- Total Number of Kinship Caregivers is estimated to exceed 2.6 million
 - 61% of Kinship Caregivers are Grandparents
 - 29% of Kinship Caregivers are Other Relatives
 - 10% of Caregivers are Non-Relatives
- 4.6 million Children Live with Grandparents
- 1.9 million Children Live with Other Relatives

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FACTS ABOUT KINSHIP

- The United States has two child welfare systems: foster care and private kinship care. The number of children in private kinship care is at least ten times larger than those in all foster care placements (combined kinship and non-relative foster care).⁸
- Children who live with grandparents and other relatives achieve more permanency, better well-being, and better outcomes than children in foster care.⁹
- Children who live with grandparents and other relatives have significant special challenges, including psychological and emotional trauma, similar to children in foster care.¹⁰
- Private kinship support services provide case management, respite, assistance in accessing public benefits, legal information, advocacy, and other supports, that enable children to stay out of foster care.
- In 2010, New York State spent 1.37 billion dollars on foster care. Until the FY2011-12 budget, New York State spent approximately \$3 million on private kinship care for the Office of Children and Family Services Kinship Program (statewide Kinship Navigator and 21 regional programs). The FY2011-12 budget cuts Kinship program funding to under \$1 million. Most states spend less on private kinship services.¹¹
- In New York State, at an average cost of \$54,060 per child for all foster care placements, or using the more conservative estimate of \$21,535 per child for regular non-specialized foster care, if only 55 children enter all foster placements (at a rate of \$54,060), or if 140 children enter regular foster care (at a rate of \$21,535), the cost equals the funding of \$3 million for the entire NYS OCFS Kinship Program. See Appendix I.¹²

CHILDREN BENEFIT - BETTER OUTCOMES

Private kinship care is the natural ally of foster care. Both are family focused and both are dedicated to the well-being of children. Yet, most importantly, children do better with kin and private kinship care is less expensive than foster care.

There are numerous studies showing children raised by family members live in safer and more stable homes than children in the care of non-relatives. An article in *Families in Society: the Journal of Contemporary Social Services* emphasizes this fact:

After controlling for demographic and placement characteristics, children in kinship care had significantly fewer placements than did children in foster care, and they were less likely to still be in care, have a new allegation of institutional abuse or neglect, be involved with the juvenile justice system, and achieve reunification. These findings call for a greater commitment by child welfare professionals, policy makers, and researchers to make kinship care a viable out-of-home placement option for children and families.¹³

A June 2008 study, published in the “Archives of Pediatric and Adolescence Medicine,” conclusively shows that children have better outcomes with relatives than in stranger foster homes.¹⁴ This study has bolstered policy arguments supportive of private and public kinship care and contributed significantly to the passage of the federal “Fostering Connections Act.”¹⁵

SPECIAL CHALLENGES

Kinship caregivers confront special challenges. The average age of a kinship caregiver is 56, with a significant number in their sixties or older. They are disproportionately poor, with 20% at or near the poverty level. Many caregivers are on fixed retirement incomes. Caregivers experience enormous stresses, related to caring for the very young or for teenagers, their relations with parents, custodial issues, and problems accessing services, and navigating various systems. They may be suddenly confronted with the need to leave the workforce in order to care for children. The children’s parents frequently remain involved either directly or peripherally with the children, although not in the role of daily provider. Elderly caregivers may be dealing with their own health issues.

Grandparents and other relative caregivers face barriers related to benefits, services, and custodial rights. Private kinship caregivers face challenges enrolling children in school, getting medical care for children, obtaining standing in custodial procedures, accessing legal services, obtaining necessary documents and benefits. Kinship families have very few specialized services, and can face barriers when seeking general services that are readily available to parental families.

FEDERAL AND STATE LAWS REMAIN FOCUSED ON KINSHIP FOSTER CARE

Over the last fifteen years, beginning with the Adoption and Safe Families Act,¹⁶ child welfare policies have increasingly recognized that kin are the one large scale resource for children at risk. Yet, like other federal child welfare enactments, the recent “Fostering Connections to Success and Increasing Adoptions Act”¹⁷ is almost entirely on the importance of kinship foster care placements.¹⁸

CHILD WELFARE AGENCIES “DIVERT” CHILDREN IN PRIVATE KINSHIP FAMILIES

Many children who are living with kin in private kinship care were “diverted” from foster care, by placing them with relatives via “temporary” or “voluntary” placements.

I. VOLUNTARY PLACEMENTS

Voluntary placements occur when kin step up to care for children and they do not become foster parents. According to the Adoption Foster Care and Reporting System (“AFCARS”) for fiscal year 2008, “more than 125,000 U.S. children live in out-of-home kinship care.” These placements are referred to as “voluntary placements.” A recent survey profiled a sampling of 8,961 children in voluntary placements or foster care (using the National Survey of Child and Adolescent Well-Being (“NSCAW”)¹⁹) showed that children in voluntary placements received significantly less oversight, services, and financial assistance.

Another study reports on the uneven use of kinship foster care from state to state and the uneven opportunity for kin to become foster parents, and concludes that the lack of supervision may also contribute to recidivism and disruptive intrusions by parents, as well as to unjustified financial hardships.²⁰ Its author Rob Geen states:

. . . [C]hildren [in] voluntary kinship care placements . . . may effectively be excluded from public agency supervision, from the specialized health and mental health and school-related services that might be available through foster care, and their parents are denied the services they may need in order to effectively reunify with their children. At the same time, voluntary kinship care placements may benefit children and caregivers by preventing the stigma and intrusion of child welfare system and juvenile court involvement. Not a single study to date has examined voluntary kinship care placements in depth.²¹

In New York State, diversion tactics are common practice in some upstate counties. While there are no absolute clear statistics for the number of children involved, the Office of Children and Family Services (“OCFS”) estimates that over 2,400 children were placed using voluntary “direct” custody pursuant to Article Ten neglect proceedings.²² Diversion refers to New York State’s Family Court Act (“FCA”) §1017 where courts can order a child to be placed in foster care or in the “direct custody” of a relative pursuant to a neglect proceeding.²³

II. TEMPORARY PLACEMENTS

In addition to voluntary placements, “temporary” placements typically occur when child protective services (“CPS”) is called upon to investigate and then attempts to find a “temporary” placement in order to avoid an Article Ten proceeding. For example, a worker is concerned that the mother is on drugs and decides to locate a family member and ask them to assume “temporary” care. When these situations occur, parents are asked if there is a relative who can care for the children, a call is then made, often by CPS or some professional familiar with the children’s circumstances, and the relative is asked to take the children into their care. No removal proceeding is initiated.

There is no official statistical data on temporary placements, although anecdotal evidence from a recent national summit on kinship care indicates that the practice is common in most states.²⁴ In a sampling of children drawn from the New York State Kinship Navigator’s Efforts to Outcomes (ETO) database, 3,351 children entered 21 regional kinship programs from Buffalo to Long Island. Of those children, 1,843 had past or current involvement with child protective services; of which 343 were placed in the custody of kin pursuant to neglect proceeding (commonly called voluntary placements) and 76 were placed with kin who were foster parents. The remaining 1,424 (42%) were placed “temporarily.”²⁵

III. PRIVATE CUSTODY & GUARDIANSHIP PROCEEDINGS

Private custody orders are another alternative placement strategy, when initiated pursuant to neglect proceedings. Private custody and guardianship proceedings are often initiated when kin decide not to seek foster care or they might not qualify, or they may never be told that they can become foster parents, or they may not have any contact with child welfare agencies and seek custody independently. They will then seek custody or guardianship in a private “third party” action, where they either have the consent of the parents or must prove unfitness, abandonment, or some other extraordinary circumstance that diminishes the protections afforded parents. For these kin, legal representation is practically non-existent.

NEED FOR RESEARCH AND FEDERAL OVERSIGHT

There is a need for study and research regarding the use of kin in voluntary and temporary placements. Data is needed on the number of these placements, the length of stay with the caretaker relative, barriers faced to stability, and the supports needed to help these families thrive. Importantly, study will most likely confirm that the number of voluntary and temporary placements far exceeds the number of children placed in kinship foster care. If this is proven, then there is a very strong argument for a federal focus on these practices. Moreover, while voluntary placements usually continue reunification efforts, they do not provide supportive services, and the need for supportive services parallels the needs of all private kinship placements, including temporary placements. In sum, examination of these practices should add emphasis to the need for uniform policies and federal supports for the entire private child welfare system (private kinship care).

State by state data on the number of private custody or guardianship proceedings involving non-parents and the actual number of kinship families who have courts orders of placement are critical to serving these families effectively.

FEDERAL AND STATE POLICIES ARE NOT COST EFFECTIVE

The fact that informal kinship care provides children with better outcomes²⁶ than foster care is a compelling justification for targeting resources to support kinship families. With the use of these dollars for kinship services, more caregivers will be able to provide informal kinship care, which will result in substantial savings because fewer children will enter the more expensive foster care system.²⁷

In New York, the average cost for one child in foster care is \$49,570. This is determined by taking all foster care costs, which include the cost for children in institutional foster care, administrative costs and supportive services, divided by the number of children in foster care. A more conservative estimate of \$15, 045 per child, is derived by taking the average cost of a basic foster care grant for a child placed with a foster parent plus administrative costs.²⁸ The cost of informal kinship care (including a TANF funded child only grant)²⁹ is only \$6,490 per child, a significant savings.

CRITICAL SUPPORTS FOR PRIVATE KINSHIP FAMILIES

While there are many benefits for children who live with kin, these children and their families have a greater likelihood of “socioeconomic risks” such as living in a household that is below the federal poverty level; with a caregiver without a high school degree; living with a caregiver without a spouse; or living in a house with four or more children.

In New York State, nearly all children in informal kinship arrangements are eligible to receive a child-only payment through Temporary Assistance for Needy Families (TANF). However, children in formal kinship care were roughly three times as likely to receive financial support as children in informal kinship care in 1999 (70% vs. 25%) and in 2002 (69% vs. 22%). An important priority for organizations providing kinship services is to assist private kinship caregivers in obtaining child-only assistance.

Lack of access to financial support for private kinship care continues to be a major obstacle to care, despite the fact that modest increases in financial support benefit children and caregivers. One study has shown that an increase in the amount of monthly income equivalent to the average TANF child-only grant is associated with a 7% greater likelihood that kinship youth will graduate from high school.³⁰ High school graduation is associated with greater likelihood of future employment and higher lifetime earnings.³¹ In addition, adequate levels of financial and material resources are associated with lower levels of caregiver stress, which is associated with healthier family and child functioning.³²

PROGRAM SUPPORTS

Many of New York's Kinship Programs are national models. For instance, Presbyterian Senior Services in the Bronx operates a grandparent apartment building that is a nationally known model for such projects; Cornell Cooperative Extension publishes the award winning series, "Parenting a Second Time Around;" and Catholic Family Center's Kinship Care Resource Network ("KCRN") won the 2008 Catholic Charities USA National Family Strengthening Award. Such programs are representative of programs across the nation that provides effective supports. Yet, there is no federal funding for these programs. Despite their successes, New York's budget crisis is resulting in the elimination of those programs, and federal funds are critical for this work to continue.

RECOMMENDATIONS ACYF SHOULD:

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1. **Evaluate the effectiveness of supportive services for private kinship families.** Across the country hundreds of programs support kinship families. Many of these programs are administered via state child welfare agencies, using state or federal dollars. Yet there is no model of best practices nor of cost effectiveness. ACYF should specifically have targeted funds to research outcomes for kinship families and the cost benefits of supportive services.
2. **Research the use of voluntary and temporary placements.** These placements may significantly exceed the number of kinship foster care placements. ACYS should specifically have targeted funds to identify the scope of these practices, examine their effectiveness, and establish uniform policies regarding assessment and placements.
3. **Set aside a percentage of the family preservation and supportive services funding for services to private kinship families.** Dependent upon results of research on supportive services outcomes and cost benefits, services to private kinship families, including voluntary, temporary, and private placements, should be funded pursuant to PSSFA's supportive and preservation funding.

Appendix I. Summary of Cost Benefit Calculations- New York State Kinship Programs

Fiscal Year 2011-12 Savings

If the New York State Office of Children and Family Services (OCFS) Kinship Programs are not funded:

- If **60** children enter all foster placements, the cost will equal the entire \$3 million for full funding of the OCFS Kinship Program.
- If **200** children entering regular foster care, the cost will equal the entire \$3 million for full funding of the OCFS Kinship Program;
- • Without these programs, an estimated 475 children will leave informal kinship care and enter foster care during FY2011-12. At an increased cost between \$23,545,750(foster care placements minus informal cost) or \$7,146,375 (regular foster parent care minus informal cost).
- **Average Cost of (Formal) Kinship Foster Care** Annual overall costs of foster care = **\$1,376,000,000** (OCFS foster care budget). Number of children in all foster care placements = 24,541).
- Average cost of all foster care placements (institutional, special and exception needs foster parents, etc, plus administrative costs); = **\$56,060** per year
- Average cost of one child placed in regular foster care (basic foster parent payment plus administrative cost) = **\$21,535 per year.**

Average Cost of Informal Kinship Care

Annual cost of one child in a OCFS kinship program (\$140,000 per program, over 300 children served per year per program) = **\$466**. Annual average cost of public assistance per child (OTDA payment plus administrative costs) = **\$6,024**.

- Total cost per child of informal kinship care = **\$6,490**.¹

Average Difference in Cost

- Difference between average cost of children in all formal foster care placements (\$54,060) and the cost for children in informal kinship care (\$6,490 – including a public assistance grant) = **\$49,570**.
- Difference for a child placed in regular foster care with a foster parent = **\$14,595**.

¹ Not all informal kinship families receive these grants. However, for simplicity the calculation assumes that they do.

NOTES

¹ Cheryl Smithgall, et al., *Caring for their Children's Children: Assessing the Mental Health Needs and Service Experiences of Grandparent Caregiver Families*, CHAPLIN HALL SUMMARY SHEET 103 (May 2006).

² Jennifer M. Kinney, et al., *Grandparent Caregivers to Children with Developmental Disabilities* in *WORKING WITH CUSTODIAL GRANDPARENTS* (Bert Hayslip Jr. & Julie Hicks Patrick, eds. 2002).

³ Smithgall, *supra* note 1.

⁴ A study conducted in 1994 found that 70 percent of grandparents reported caring for a child with one or more medical, psychological or behavioral problems. See D. Lai & S. Yuan, *Grandparenting in Cuyahoga County: A Report of Survey Findings*, CUYAHOGA COUNTY COMMUNITY OFFICE OF AGING (2004).

⁵ “Over a quarter of the caregivers (27.5%) indicated that the child had a disability.” James P. Gleeson et al., *Individual and Social Protective Factors for Children in Informal Kinship Care*, JANE ADDAMS COLLEGE OF SOCIAL WORK, UNIVERSITY OF ILLINOIS AT CHICAGO (Feb. 26, 2008).

⁶ U.S. Dep’t Health & Hum. Services et al., *Report to the Congress on Kinship Foster Care* (June 2000), available at <http://aspe.hhs.gov/hsp/kinr2c00/full.pdf>.

⁷ See American Community Survey, *Grandparents, (2005-09)*, available at http://factfinder.census.gov/servlet/STTable?_bm=y&-geo_id=01000US&-qr_name=ACS_2009_5YR_G00_S1002&-ds_name=ACS_2009_5YR_G00_ (asserting that close to 4.6 million children live with grandparents (6.3% of all children in the United States)); See also Pew Research Center, *6% More Children Raised by Grandparent During Recession*, <http://pewresearch.org/databank/dailynumber/?NumberID=1093> (last updated June 27, 2011) (indicating that an estimated 1 in 10 children in the U.S. live with a grandparent); See also Mark F. Testa et al., *Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State* (June 2010), available at <http://ocfs.ny.gov/main/reports/Pursuing%20Permanence%20for%20Children%20in%20Foster%20Care%20June%202010.pdf> (In New York, approximately 6,400 foster children are residing in the homes of grandparents, aunts, uncles, and other relatives on any given day).

⁸ AFCARS, 2010; U.S. Census Bureau 2006-2008

⁹ See Justine G. Nelson et al., *Kinship Care and “Child-Only” Welfare Grants: Low Participation Despite Potential Benefits*, 13 J. FAM. SOC. WORK 3 (2010).

¹⁰ Smithgall, *supra* note 1.

¹¹ New York State Kinship Coalition, *Kinship Care in New York: Keeping Families Together* (March 2011), app. J available at http://www.nysnavigator.org/documents/AARP_KincareKeepingFamilies10.pdf.

¹² See attached Appendix I.

¹³ Marc A. Winokur et al., *Matched Comparison of Children in Kinship Care and Foster Care on Child Welfare Outcomes*, 89 J. OF CONTEMP. SOCIAL SERV. 3 (2008).

¹⁴ David M. Rubin et al., *Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care*, 162 ARCHIVES FOR PEDIATRIC & ADOLESCENT MED. 6 (June 2, 2008) available at <http://archpedi.ama-assn.org/cgi/content/full/162/6/550> (The NSCAW survey from October 1999 to March 2004 of children entering out-of-home care after a maltreatment report concluded that children placed into kinship care had fewer behavioral problems 3 years after placement than those placed into foster care).

¹⁵ *Id.*

¹⁶ Adoption and Safe Families Act of 1997, 42 U.S.C. §1305 (2010).

¹⁷ Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. 110-351, 122 Stat. 3949 (2008).

¹⁸ *Id.*

¹⁹ Christina Sakai, et al. *Health Outcomes and Family Services in Kinship Care: Analysis of a National Sample of Children in the Child Welfare System*, 165 ARCHIVES OF PEDIATRICS & ADOLESCENT MED. 2 (2011).

²⁰ *Id.*

²¹ Robert Geen, *Kinship Foster Care: An Ongoing, Yet Largely Uniform Debate* in KINSHIP CARE: MAKING THE MOST OF A VALUABLE RESOURCE, (Robert Geen ed., Uniform Institute 2003).

²² New York State Office of Children and Family Services Connections database, April 2009.

²³ See Sobie, McKinney Practice Commentary, Family Court Act §1028-a (2009) (discussing local district tactics to avert foster care placements).

²⁴ In March 2011, the Child Welfare League of America and the National Committee of Grandparents for Children's Rights sponsored a national summit on private kinship care. The Summit's findings closely parallel the recommendations herein.

²⁵ New York State Kinship Coalition, *Kinship Care in New York: Keeping Families Together* (March 2011), available at http://www.nysnavigator.org/documents/AARP_KincareKeepingFamilies10.pdf.

²⁶ Rubin, *supra* note 17. Demonstrating for the first time on a nationally representative sample of children from the NSCAW that children in kinship care are not only more likely to attain early stability in out-of-home care than children in general foster care, but are also less likely to have behavioral problems than children in foster care three years later. See New York State Kinship Coalition, *Kinship Care in New York Report*, at app. B (2008). All three NYS kinship summit reports provide examples of program supports that increase the well-being and stability of kinship families. See *AARP New York State Kinship Summit Reports*, CATHOLIC FAMILY CENTER, (2005, 2008, 2011), available at <http://www.nysnavigator.org/pubsforpros/aarpsummit.php>.

²⁷ The cost savings include administrative costs. However, actual administrative costs will depend upon staff case loads, re-assignment, and other administrative factors or the use of a contracting agency. While it is fair to say that the total direct and indirect costs for one child average over \$50,000 - for a child who leaves informal kinship care and is placed in foster care, the real cost savings are the amount that transfers to foster parents plus whatever real administrative savings would actually be incurred. Real administrative costs may only occur when a sizable increase in cases results in a case worker being hired or when payments to an outside contracting agency are made.

²⁸ New York's 2011 Kincare Summit report provides that the average cost of all foster care placements in one year is equivalent to \$56,060, whereas the total cost per child of informal kinship care is \$6,490, including a public assistance grant which not all informal kinship families receive. Thus the difference between the average cost of children in all formal foster care placements and the cost for children in informal kinship care is a savings of \$49,570. NYS Kincare Coalition, *Kinship Care in New York: Keeping Families Together*, at apps. H & I (2011), available at www.nysnavigator.org.

²⁹ Not all informal kinship families receive grants. However, for simplicity the calculation assumes that they do.

³⁰ See Nelson *supra* note 9; See also Hwa-Ok Park, *Grandmothers Raising Grandchildren: Family Well-Being and Economic Assistance* 24 FOCUS 19, 19-27 (2005).

³¹ See Nelson *supra* note 9.

³² James P. Gleeson et al., *Individual and Social Protective Factors for Children in Informal Kinship Care*, JANE ADDAMS COLLEGE OF SOCIAL WORK, UNIVERSITY OF ILLINOIS AT CHICAGO (Feb. 26, 2008).

³³ In March 2011, the Child Welfare League of America and the National Committee of Grandparents for Children's Rights sponsored a national summit on private kinship care. The Summit's findings closely parallel the recommendations herein.

Hearing on Improving Programs Designed to Protect At-Risk Youth

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