




PARTICIPANT MATERIALS

Keeping Families Together: How Advocates Can Support Relative Caregivers


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Excellence in Advocacy

Keeping Families Together: How Advocates Can Support Relative Caregivers



1

Speakers

- Sue Abrams, Children's Law Center of California
- Tyler Sutherland, Public Law Center

2

What the Research Tells Us:

Relative placement results in:

- More stability in care
- More frequent and consistent contact with birth parents and siblings
- More likely to remain in neighborhoods & schools of origin
- More likely to graduate from high school
- Less likely to run away
- Fewer negative emotions about being placed in foster care than children placed with non-relatives
- Lower rates of re-entry than children placed with non-relatives.



Citations: Edwards, L., "[Relative Placement in Child Protection Cases](#)," *Juvenile and Family Court Journal*, Vol. 61, No. 2, 2010, at pp. 10-13

Time for Reform: Support Relatives in Providing Foster Care and Permanent Families for Children.
<http://www.kidsarewaiting.org/tools/reports/files/0004.pdf>.

3

Examples of Legal Support for Relative Placement

State and federal law have long prioritized placement with relatives. States must "considering giving preference to an adult relative over a nonrelated caregiver when determining placement for a child, provided the relative caretaker meets all relevant state child protection standards. 42 U.S.C. Section 671(a)(19).

ICWA: highest preference for placement is with a member of the child's family absent good cause to the contrary. A party seeking to deviate from the preference must show clear and convincing evidence that there is good cause.

Fostering Connections to Success and Increasing Adoptions Act of 2008

- Relative Notices
- Kinship Navigator Programs (which FFPSA now provides a dedicated funding stream for)
- Kinship Guardianship Assistance Payments
- Extended medicaid eligibility for children receiving assistance payments.

4

Family First Prevention Services Act

- Provides prevention services to children, kinship caregivers, and parents to help keep children safely out of foster care.
- Reduces licensing barriers to increase the use of kinship foster homes.
- Encourages kinship navigator programs to assist kinship families.
- Promotes family engagement for children who live in group settings.

New Opportunities for Kinship Families: Action Steps to Implement the Family First Prevention Services Act in Your Community, www.grandfamilies.org

5

5

Federal Family Finding Requirements



States must exercise **due diligence** within 30 days after the removal of a child to identify and provide notice to all grandparents, all parents of a sibling of the child, where such parent has legal custody of the sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents) that:

- The child has been or is being removed from the custody of his or her parents,
- The options the relative has to participate in the care and placement of the child, and
- The requirements to become a foster parent to the child.

42 U.S.C. § 671(a)(29)

6

6

Ongoing Family Finding Requirements

For youth in Another Planned Permanent Living Arrangement:

States must make ongoing efforts that utilize search technology (including social media) to find biological family members for the children

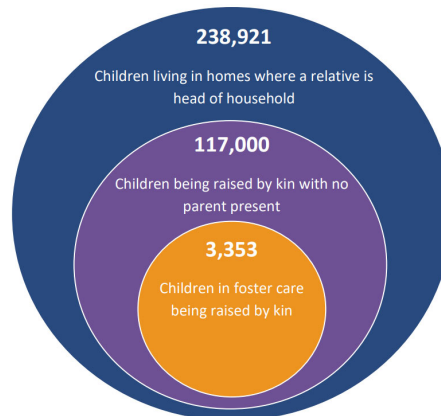
42 U.S.C. 675a



7

Trending in the Right Direction

- The percentage of children in relative care has steadily increased since 2000.
- Nationally, the percentages have increased from around 24% to approximately 34%. Some states are doing better than others



8



How does your state prioritize relative placement?

<https://www.childwelfare.gov/pubpdfs/placement.pdf>

<https://www.grandfamilies.org/State-Fact-Sheets>

9

9

Where are we falling short?

10

10

Common Obstacles

- Restrictive definitions of family in state law and policy
- Prior involvement in criminal justice system
- Disagreement with the Department's approach to permanency
- Poverty issues
- Biases of the agency, lawyers, and court
- All of these issues have the potential to increase racial disparities in foster and group care

11



Improving Foster Care Licensing Standards around the United States: Using Research Findings to Effect Change www.grandfamilies.org

12

12

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The over-incarceration of people of color has led to a smaller pool of available people who can serve as kinship caregivers for children of color who become involved in the child welfare system, because of child welfare policies that prohibit people with criminal histories from being foster parents.

Entangled Roots: The Role of Race in Policies that Separate Families,
<https://cssp.org/wp-content/uploads/2018/11/CSSP-Entangled-Roots.pdf>

13

13

Class and
Race-Based
Bias
In re Dependency
of K.W.
No. 99301-7

Criminal histories

Victim of domestic violence

Not divorced from estranged husband

Prior referrals



Doesn't want to "provide permanency"

Supports contact with bio parents

Might get deported

14

14

Inequities in Funding Structures

- Less than 12% of kinship care providers receive TANF- even though nearly all are eligible.
- 42% get SNAP benefits
- 42% of children in relative placement have medicaid in place.
- Child care and housing assistance only provided 17% and 15% of families respectively.
- Funding disparities with children placed in nonrelative care.

15

Litigation & Policy Strategies to Address Common Barriers to Relative Placement

16

16

In-Court Advocacy Strategies

- 1) **Relative preference hearings:**
 - "Pre-Release Investigation"
Hearings for emergency placement
 - Hearings at disposition
- 2) **Accountability for family finding requirements**
- 3) **Hearings to challenge changing placements from relatives to foster care**
- 4) **Appellate advocacy**
 - *In re KW*
 - *Isabella G., 246 Cal.App.4th 708 (2016)*: A relative requesting placement is entitled to a hearing
 - *In re C.P., 47 Cal. App. 5th 17 (2020)*: Absolute statutory bar to placement due to criminal conviction would be unconstitutional if relative establishes parental relationship

17

17

Solutions: Outside of Court

- Family Finding Programs
- Youth Centered Approach
- State Policy Changes
- Targeted Advocacy for Relatives
 - Legal assistance regarding obstacles
 - Administrative Hearings to challenge denials

18

Los Angeles County's Upfront Family Finding Program

PILOT:

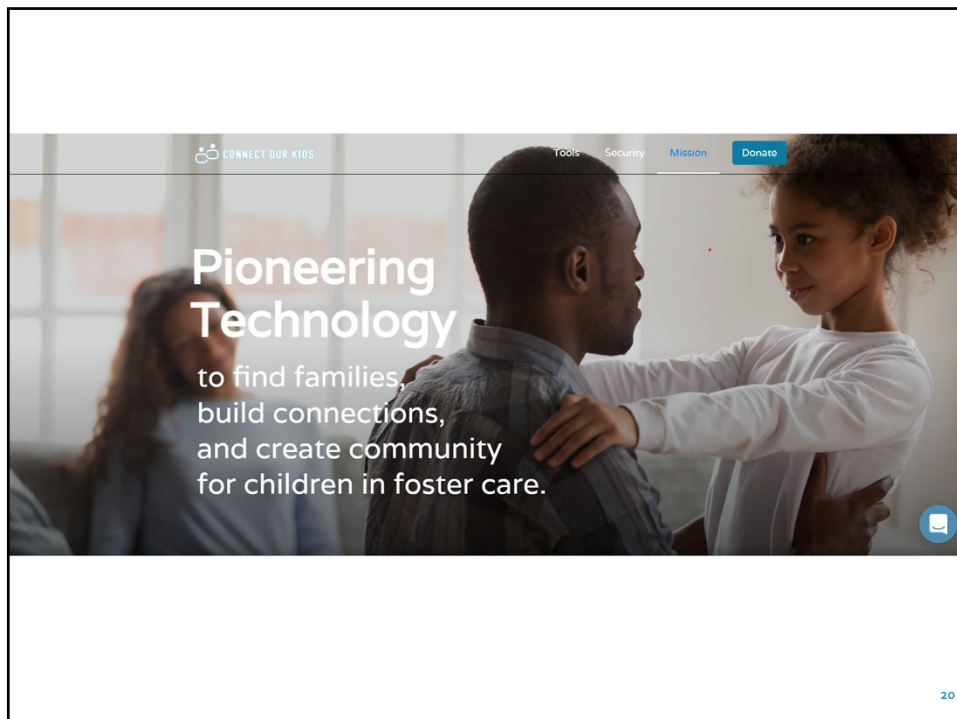
- 2 offices in the County participated in the pilot.
- Served children who were first removed from their homes.
- Cases were assigned to specialized workers who were part of the Permanency Partners Program (P3).

PROGRAM FINDINGS:

- An average of 17 relatives were found for children new to out-of-home care.
- All but 2 of the 417 children had at least one relative identified.
- 60% of children served had at least one relative interested in providing a placement for the child.
- Approximately 80% of children had at least one relative interested in visits or phone calls.

19

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California
Example:
Policy
Strategies


- 1) **Approved Relative Caregiver (ARC) Funding:** Addressed disparities in funding
- 2) **SB 213 (2017) & SB 354 (2021):** address barriers to placement for prospective caregivers with criminal history
- 3) **AB 366 (2021):** physical capacity of the home alone cannot be used to deny placement of a sibling group

21

21

Direct Service
Strategies for
Improving Outcomes
for Individual Relative
Caregivers

22


	BARRIER	SOLUTION
	<ul style="list-style-type: none"> Relative Caregivers are not provided any counseling or representation throughout the dependency process. 	<ul style="list-style-type: none"> Connect relative caregivers with legal service providers who can assist with related issues.

23

<p>Referrals to Legal Aid</p>	<ul style="list-style-type: none"> At LAFLA, we take referrals directly from minor's attorneys. Direct referral process to reduce friction for families dealing with multiple bureaucratic systems. Minor's attorney can often describe the complex problems than the relative caregiver, who might just be getting up to speed on the dependency court proceedings/lingo or might not yet be familiar with the quick deadlines requires for appeals.
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24

Setting up A Referral System



LEGAL AID FOUNDATION OF LOS ANGELES
Justice • Equity • Hope

To make a referral, fill out the information below and
• Email to ladreferrals@lafli.org

Referral Made By: _____ Date of Referral: _____
Telephone Number: _____ Email Address: _____

Child/Children's Information		
1.	Name	Date of Birth / Citizenship or Immigration Status
2.		
3.		
4.		

NEEDED FOR LAFLA ELIGIBILITY

- Does the child have income (i.e., CalWorks, SSI, Survivor's Benefit)? YES / NO
 If yes, how much? _____
- Does the child own any property or other assets? YES / NO
 If yes, what is the value? _____

Caregiver's Information	
Name	
Address	
Telephone Number	
Relationship to Child	
Primary Language	

Rev. 1/02/21 TS

Other Information

Minor's Attorney:	Telephone:
Children's DCFS Social Worker:	Telephone:

Dependency Case Number: _____
Date of Detention: _____
Brief description of the problem: _____


*****Please attach the minute order and court report from the detention hearing, any notices the caregiver has received regarding funding, or any other helpful documents.

Disclaimer: Submitting this form does not guarantee your case will be accepted or that LAFLA will provide representation. Please assume your case has not been accepted for assistance until you receive affirmative confirmation from LAFLA that the case has been accepted.

Rev. 1/02/21 TS

25

25



BARRIER

- The home approval appeal process is complex and hard to navigate.

SOLUTION

- Collaboration between agencies to get relative caregivers representation in their appeal and support through the lengthy process.

26

Collaboration Between Agencies

- Legal Aid Attorney provides:
 - knowledge of the process with minor's attorney.
 - timelines and updates for minor's attorney to use in court while the appeal is pending.
- Minor's attorney provides:
 - Comprehensive history and documents that caregiver may not have knowledge of or access to.
 - letters of recommendation
 - Advocacy for the kinship caregiver in Dependency Court,

27




BARRIER

- Black people have been disproportionately incarcerated as part of the prison industrial complex and systems of racial control. Black caregivers are more likely to need a criminal records exemption.

SOLUTION

- Connect relative caregivers requiring criminal records exemptions with record clearing services.

28



BARRIER	SOLUTION
<ul style="list-style-type: none"> Black people have been systemically excluded from homeownership due to the legacy of redlining. Black people are more likely to be tenants and be denied home approval due to space issues or habitability issues with their apartment. 	<ul style="list-style-type: none"> Connect relative caregivers with tenant organizers and housing attorneys so that they have agency to improve poor apartment conditions.

29



<p>Holistic Services for Caregivers</p>	<ul style="list-style-type: none"> Legal Aid can provide services to support the whole family, holistically. <ul style="list-style-type: none"> Re-Entry Legal Services to Improve Criminal Records <ul style="list-style-type: none"> Felony reductions—most valuable remedy in criminal records exemptions. Housing Services <ul style="list-style-type: none"> Transfer of Section 8 Vouchers/Obtaining a larger unit Habitability Issues Economic Stability <ul style="list-style-type: none"> Obtain additional Economic Supports (Cash Aid, Food Stamps) Increase income by reducing overpayments to existing benefits
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30