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## HIGHLIGHTS OF RECENT KINSHIP CARE STATE LEGISLATIVE ENACTMENTS

### MEDICAL CONSENT AND SCHOOL ENROLLMENT

**Twenty five states (AR, CA, CO, DE, FL, GA, HI, ID, IN, KS, LA, MD, MS, MO, NV, NM, NY, NC, ND, OK, PA, TX, UT, VA and WY) and the District of Columbia have enacted legislation to enable grandparent and other relative caregivers to access medical care and treatment for children. Twenty one states (CA, CT, DE, HI, ID, IN, IA, LA, MD, MO, NJ, NM, NY, NC, OH, OK, RI, SC, UT, VT and WY) allow caregivers to enroll children in schools. Both types of laws may require caregiver affidavit forms, offer immunity for providers and penalties for false statements. The laws generally are for a limited, defined time period and allow parents to rescind their consent at any time. Most recently, Hawaii (2005, 2004) and New York (2004) passed laws to allow informal caregivers to consent to a child's medical treatment, school enrollment or participation in extra-curricular activities.**

### RELATIVE PLACEMENT

**In 2005, a number of states worked on issues related to promoting placement of children with relatives. Arizona required the kinship foster care program to promote relative placement and that kinship foster care families be notified of available financial and non-financial services. Colorado required a parental affidavit that lists all relatives for potential placement. Maryland required the courts to give priority to a child's relative. Montana required a departmental investigation to determine whether custody should be awarded to a relative; a written explanation is required if custody is denied. New Jersey required the department to inform kinship legal guardians of their legal responsibilities and eligibility for services and financial assistance. New York required that relatives be informed of all proceedings regarding a child in need of placement and of the opportunity to become a foster parent. The legislation also required an immediate investigation to locate all suitable relatives when a child is removed from home and allowed the court to authorize a home investigation and to expedite approval of the relative as a foster care parent if the home is certified. Pennsylvania enacted the Resource Family and Adoption Process Act which includes provisions requiring resource parent families (including kin) to be treated equitably during the foster and adoptive process. South Dakota required the court and the department to give placement preference to a relative or custodian who is available and has been determined to be qualified as long as the placement is in the best interest of the child. The legislation will allow any relative who has been denied adoptive placement to request a hearing, filed within 30 days with the circuit court, to determine if the placement was an abuse of discretion. Finally, Texas enacted comprehensive legislation as part of its child protective services reform initiative. Provisions included the development of a child placement resources form which requires a parent to identify three individuals who could be relative or designated caregivers, the expediting of departmental administrative procedures to ensure a child is placed with a relative or designated caregiver, and a caregiver assistance agreement that includes a one-time cash payment**

**and reimbursement for child care and other expenses. The legislation also required collaboration with other health and human service agencies to provide assistance and with the State Bar of Texas and others to identify legal resources for relative and other designated caregivers.**

**Missouri (2004) required placement with relatives whenever a child is placed in foster care and a court has ruled that relative placement is not contrary to the child's welfare. In 2003 Washington required the state to plan and implement strategies to prioritize the placement of children with kin when out-of-home placement is necessary and to develop procedures for locating kin and actively reaching out to relatives for placement.**

## **SUBSIDIZED GUARDIANSHIP, KINSHIP FOSTER CARE AND OTHER CAREGIVER SUBSIDIES AND SUPPORTS**

**In the 2005 session, Maine enacted a Guardianship Subsidy Program to be funded by a federal Title IV-E waiver which, if approved, will allow services and subsidies for special needs children placed in permanency guardianships.**

**In 2004, Virginia's Senate Bill 35 created a Subsidized Custody Program for children in foster care whose custody has been transferred to relative caregivers and for whom reunification and adoption have been ruled out. The subsidy will include a one-time special need payment, services for the child and a maintenance subsidy equal to the foster family rate. The program is dependent upon approval of a federal Title IV-E waiver application, which is still pending (as of January 2006). Virginia also required local boards of social services to seek out kinship care options.**

**In the 2003 legislative session, Nevada and Oregon established procedures for creation of permanent legal guardianships for abused and neglected children. Pennsylvania established a Kinship Care Program and required that relatives of children who are being placed in foster care be considered first as caregivers. The program provides relative caregivers the same foster care rate as other foster parents and excludes the relative's foster care payment from consideration when calculating eligibility for public welfare assistance. Texas authorized development and implementation of a relative reimbursement pilot program. Connecticut required the creation of a kinship foster care program. In 2002, Delaware mandated that the state establish a kinship care program and Florida expanded its Relative Caregiver Program to include half-siblings who are not related by blood to the caregiver, to exempt children in the program from payment of fees at certain post-secondary schools, and to make children in the program eligible for the School Readiness Program. Colorado created the Family Caregiver Support program to provide services for family caregivers of older individuals and for grandparents or older individuals who are relative caregivers of children. Colorado also authorized counties, subject to appropriations, to provide a basic assistance grant to a grandchild who exited foster care into the legal custody or guardianship of a grandparent.**

**In 2001, the District of Columbia, Idaho and Nevada created subsidized guardianship programs. Louisiana expanded its grandparent subsidy program to other relatives, while Missouri, responding to greater than expected demand and budgetary limitations, reduced the subsidy and restricted eligibility under its Grandparents as Foster Parents program. Oklahoma required the development of comprehensive plan to support guardians, adoptive parents other "created families." Texas lowered the minimum age at which a grandparent may qualify for supplemental assistance for the care of a dependent plan for possible**

**kinship placements, among other purposes.**

## **DE FACTO CUSTODIANS**

**Idaho (2004) set forth in statute the circumstances under which informal caregivers may qualify as “de facto” custodians with the right to initiate proceedings for appointment of a guardian.**

## **WORKGROUPS/TASK FORCES/SPECIAL COMMITTEES**

**Lawmakers have also established a variety of study groups, task forces and oversight committees charged with examining issues facing kinship care providers. For example, Washington established both a Working Group (2002) to brief the Legislature on policy issues and an Oversight Committee (2003) charged with monitoring, guiding and reporting on kinship care recommendations. Nevada's Legislative Committee on Children, Youth and Families (NRV 218.53723) created a Children, Youth and Kinship Care Subcommittee which held meetings and presented findings on kinship care to the full committee in 2004. New Jersey Assembly Resolution No. 125 of 1998-1999, created the Assembly Task Force on Grandparenting. The resolution required the Task Force to examine and develop recommendations for programs and services to grandparents raising children. The Task Force produced a major report on the topic - The Assembly Task Force on Grandparenting Report (1999).**

**In 1999, the Ohio Department on Aging produced a report entitled, "Grandparents Raising Grandchildren," outlining the issues facing grandparent caregivers and listing recommendations. As a result, that same year the Ohio General Assembly authorized the creation of a Kinship Care Services Planning Council. Council recommendations included the development of kinship navigators in counties, the development of a kinship caregiver affidavit, improved access to publicly funded child care services and the creation of a statewide kinship care advisory board to coordinate with ODHS on the kinship care program. In 2002, Wisconsin lawmakers created a Special Committee on Relative Caregivers which was directed to study: (1) current law relating to relative caregivers under the Children's Code and under current law relating to guardianship and kinship care; (2) relatives who care for children under an informal agreement between the child's parent and the relative and whether such relatives should be granted decision-making authority with respect to the child's care; and (3) third-party visitation law and enforcement of third-party visitation orders.**

## **KINSHIP CARE NAVIGATOR PROGRAMS**

**State lawmakers have authorized kinship care navigator projects to help caregivers “navigate” or find their way through various systems such as child welfare, child care, TANF, health, legal/judicial, education and other services. In 2003, Washington established two kinship care navigator pilot projects. A final evaluation is expected by the end of January 2006. In 1999, Ohio lawmakers allowed the department to establish a statewide program of kinship care navigators to assist kinship caregivers with information and assistance on services and benefits including publicly funded child care; respite care; training related to caring for special needs children; a toll-free information number; and, legal services. New Jersey's Department of Human Services established a Kinship Navigator program which the Legislature encouraged the use of to ensure that individuals who may be eligible to become kinship legal guardians are aware of the eligibility**

**requirements for, and the responsibilities of, kinship legal guardianship, and that both individuals who may be eligible to become kinship legal guardians and current kinship legal guardians are aware of the services available to kinship legal guardians in the State (30:4C-90).**

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**Denver Office:** Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | [Map](#)

**Washington Office:** Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001