



**TESTIMONY FOR THE JOINT LEGISLATIVE HEARING ON THE  
GOVERNOR'S PROPOSED HUMAN SERVICES BUDGET  
JANUARY 24, 2019**

---

**Recognizing the Importance of the 195,000 Children Living  
with Grandparents and Other Relatives, Mostly in Non-Foster  
Kinship Care, and Improving Services for These Families**

---

**GERARD WALLACE, ESQ.  
DIRECTOR, NYS KINSHIP NAVIGATOR  
PUBLIC SERVICE PROFESSOR, U. AT ALBANY SCHOOL OF SOCIAL WELFARE  
CHAIR, NYS KINCARE COALITION**

**RYAN JOHNSON, MSW  
REGIONAL COORDINATOR, NYS KINSHIP NAVIGATOR  
POLICY COORDINATOR, NYS KINCARE COALITION**

## Table of Contents

<b>Executive Summary:</b>	<b>3</b>
“Private” Kinship Care is Not Foster Care	
Response to Families First	
Recommendations	
<b>Budget Recommendations:</b>	<b>5</b>
Recommendation 1: Support Kinship Families by Funding Local Programs at \$2,238,750	
Recommendation 2: Support Kinship Families by Funding the Kinship Navigator at \$320,500	
Recommendation 3: Support the Implementation of the Families First Prevention Services Act Kinship Navigator Provisions by Funding the Implementation Project at \$120,000	
<b>Policy Recommendations:</b>	<b>6</b>
Recommendation 4: Inform Kinship Caregivers of Benefits and Supports	
Recommendation 5: Declare September as Kinship Care Month	
<b>Supporting Background for Budget Recommendations</b>	<b>7</b>
<b>Supporting Background for Policy Recommendations</b>	<b>10</b>
<b>Discussion:</b>	
Description of Kinship Population and Services	12
The Opioid Crisis and its Impact on Kinship Care	13
Diversion of Kinship Children from Foster Care	14
<b>Appendix A: Flow Chart Describing Kinship Placements</b>	<b>16</b>
<b>Appendix B: Governor’s Proposed Kinship Related Funding</b>	<b>20</b>

## **Executive Summary:**

By Gerard Wallace and Ryan Johnson

### **Kinship Navigator**

The Kinship Navigator provides serves the kinship community statewide and provides leadership via its educational services and chairing the KinCare Coalition. The Navigator serves all 62 counties via information, referral, and education. We provide in-depth knowledge of kinship laws and issues. The Navigator's website presents extensive fact sheets on benefits and services, receiving over 50,000 website visits per year. Its help line receives around 2,500 calls per year from all 62 counties. Last year, the program held more than 110 educational presentations throughout the state. We work to inform, make referrals, educate and advocate at both the state and local levels. We assist with education on many complex kinship issues. For example, the Navigator recently presented at attorney Continuing Legal Education seminars in Nassau, Broome, and Onondaga counties. Our research led to ten new legal fact sheets that added to our online library of over fifty self-advocacy legal fact sheets. The Navigator is currently funded at \$320,500.

The Kinship Navigator primarily helps to stabilize kinship families when they first assume care, advising them on their rights and benefits, which can differ depending on whether the caregivers have informal custody, legal custody, guardianship, foster care, direct custody, or KinGAP. Please refer to our graphic describing how kin become caregivers in Appendix A. Please note how most of kinship care is private care, *not* foster care.

Since last year, the most important kinship development is the passage of the federal Family First Prevention Services Act. The Act significantly changes federal reimbursement for congregate care, improves prevention services, including for "candidates" for foster care, and funds kinship navigator services for all kinship families. For kinship navigators, the goal is keeping children out of foster care.

The Act begins to address the dilemma in child welfare kinship policy – supporting children *entering* foster care by placing them with families, with an emphasis on kin, and also supporting kinship children so that they do *not* enter foster care.

Few advocates and foster care agencies were invested in supporting private kinship care. The result is that the great number of kinship families outside of foster care have remained outsiders for two decades – despite being a primary source of non-foster placements for child welfare agencies. Funding for kinship families who are not in foster care had no federal source and states remained focused on their "foster care system."

This year, in the FFPSA, there is funding for kinship navigator services. Funding will not become available through the Act until 2020, because programs must meet evidence based standards which the Children's Bureau has yet to announce. In anticipation, the Kinship

Navigator has been tasked by OCFS to develop program services that meet the evidence base requirements of the FFPSA. As part of that endeavor, the Governor has amended our line item to permit a wide range of actions responsive to FFPSA. Therefore, we have added a new recommendation for the Kinship Navigator to respond to the FFPSA kinship navigator criteria.

The Governor has provided:

- Same funding for local kinship services since 2009: \$338,750
- Same funding for Kinship Navigator since 2009: \$220,500
- Increased funding for child welfare agencies to increase kinship foster care, and for Permanency Resource Centers (PRCs) to assist in post-permanency for families exiting foster care: \$10,603,000.

In response, we recommend:

- Add \$1.9 million, the same as last year, to fund the current 22 kinship local programs
- Add 100,000, the same as last year, to fund the Kinship Navigator
- Add \$120,000 for the Kinship Navigator to evaluate and make recommendations for kinship navigator services that could be funded by FFPSA
- Support Governor's funding for increasing kinship foster care and Permanency Resource Centers at \$10,603,000.

In summary, aside from kinship foster care, our focus on private kinship care asks for the legislature to fund kinship services at the same level as last year, and to add \$120,000 for the Kinship Navigator to advance implementation of the FFPSA's kinship navigator provision.

\*\*\*

## **Budget Recommendations**

### **Recommendation 1: Continue local kinship program funding at \$2,238,750**

In addition to funding for the statewide Kinship Navigator Program, the Governor's office has also included funding for local kinship caregiver programs. The funding has remained flat in the Governor's budget at \$338,750, which provides enough funding for three local kinship programs. The Legislature has added to this funding for these programs, and for the past two years has added \$1,900,000 to fund a total of 22 local kinship programs. In FY 2017-18 these programs helped over 2000 children find permanency and stability with kinship families, keeping children out of foster care and safe at home with relatives, saving an estimated \$52 million in possible foster care costs.

### **Recommendation 2: Continue Kinship Navigator funding at \$320,500**

Recognizing the need for a comprehensive statewide information, referral, and education network that assists and supports relative caregivers and their children, the Governor's office has included the NYS Kinship Navigator Program (KN) in their budget since 2008. Originally funded by the Legislature in 2005 at \$250,000 – the executive budget decreased funding to \$220,500 in 2010, as part of the recession cut backs. The Legislature has added \$100,000 to the KN budget since 2015. Continuing KN's budget allocation at \$320,500 would help secure continued services and ensure that KN can implement long range plans for helping families and supporting service provision in communities not served by a local kinship program.

### **Recommendation 3: Provide funding for the Implementation of the Families First Kinship Navigator Evidence Based Practices at \$120,000**

Add \$120,000 to allow the Kinship Navigator to continue the federal kinship navigator project evaluation for October and November 2020 and to make determinations on best practices for kinship navigator services evaluated by other states that could be suitable for matching FFPSA funding in New York. Proper implementation of evidence based services would prepare New York State to potentially draw down on over \$1 million in federal matching dollars for kinship services.

**See Supporting Background on page 7 for more information**

## **Policy Recommendations**

### **Recommendation 1: Inform Kinship Caregivers of Benefits and Supports**

Social Services Law § 392 currently requires social services districts to provide information on the non-parent (“child only”) grant, financial assistance available to kinship caregivers, while FCA 1017 requires districts to inform suitable kinship caregivers about their custodial options. In-state studies have shown that accurate and complete information is often not communicated and many caregivers remain uninformed. In order to ensure that caregivers receive accurate and complete information, the proposed amendment would reinforce and define the provision of information requirements and add a requirement to make referrals to a kinship care service provider administered by the Office of Children and Family Services.

### **Recommendation 2: Declare September as Kinship Care Month**

For the past four years, the Governor and the Legislature have declared September as Kinship Care Month. We believe this action is a great way to promote kinship care and to honor the hard work, dedication, and sacrifice of kinship caregivers. Each September, the Navigator and other kinship programs across the state hold celebrations and honor caregivers. Currently, 12 states and the U. S. Senate have adopted resolutions. This year, on February 5th, both chambers will again pass resolutions. We are grateful to the Legislature for this honor.

**See Supporting Background on page 10 for more information**



competitive funding cycle begins in 2020, best practices will be established, and programs will be able to rely on the State's commitment to supporting kinship families.

### **Recommendation 2: Continue Kinship Navigator funding at \$320,500**

KN conducted a federal demonstration project from 2012-2015 that expanded its outreach into 5 counties, resulting in a 600% increase in referrals of kinship care families to the Navigator. In an effort to sustain the best practices from that project, KN advocated for an increase in funding from the State.

Since 2015, the Assembly has added \$100,000 to the Navigator budget in order for KN to continue its work of regional navigation, adding an increased Navigator presence throughout many localities in response to the opioid crisis and the corresponding increase in caregiving. With its current budget of \$320,500, KN was able to do over 120 presentations throughout the state in 2017-18.

Since KN's start in 2006, it has received 31,782 calls, of those 29,071 were caregivers or relatives seeking to become caregivers, comprising 14,869 families. KN's help line also received 2,701 professional calls, from 1,760 social service professionals and attorneys. KN's website visits total: 548,434 visitors.

KN's efforts particularly target counties where there are no local kinship programs and where the opioid crisis has increased reliance on kinship families

While not part of this sustained budget request, it is important to note that KN has already implemented special regional navigator supports in collaboration with Onondaga County's acclaimed "All in For Kin" project. KN's current funding resources supports this effort, but expansion into other counties will require additional funding.

KN also works to improve policies and practices. In 2018, KN's work with OCFS contributed to OCFS's new policy that county work plans should contain targeted increases in utilization of kin as foster parents, and the enactment of Chapter Law 80, which extends the parental designation period from six to twelve months.

For more information on that legislation, *see*:

<https://governmentreform.wordpress.com/2018/08/31/nys-enacts-help-for-parents-facing-deportation/>



### **Recommendation 3: Provide funding for the Implementation of the Families First Kinship Navigator Evidence Based Practices at \$120,000**

In order to assist state kinship navigators to meet the requirements of the Families First Prevention Services Act of 2018 (FFPSA), Congress allocated \$20,000,000 for states to implement evaluated kinship navigator projects, with the expectation that these projects would qualify state kinship navigators for matching Title IV-E FFPSA dollars. The projects aim to evaluate kinship navigator services and ensure that they are evidence-based, a requirement for programs to receive FFPSA funding.

The Kinship Navigator was chosen by OCFS to implement and evaluate targeted kinship navigator services that are currently part of the state's unified kinship system of care (KN and the 22 local programs). KN received \$637,000 for the first year of an anticipated two year project. KN is implementing a plan that includes six local kinship programs and the SUNY Center for Human Services Research as the evaluator. See attached original OCFS proposal to the Children's Bureau.

Also, while Congress has recently appropriated a second year of kinship navigator funding, the project startup will not occur until March 2019, and then even with two years of funding it is unlikely that the project will reach full compliance with the evidence base standards, unless the evaluation and evaluated services can continue beyond the second year.

The expected need to extend funding for the evaluation and for enhanced services beyond the two year federal funding is one justification for KN's line item amendment which is found in the Governor's budget proposal. The amendment in this session's line item will allow for an extension of the federal effort for the two months beyond the end of the federal budget second year (September 2020) and start of the 2020-21 NYS budget (December 2020). KN could then take action beyond the two year (and two month) shell in the 2020 legislative session to implement evidence based practices in the state, preparing the state to draw down a federal match.

*See federal second year funding: PL 115-245: <https://www.congress.gov/bill/115th-congress/house-bill/6157/text?q=%7B%22search%22%3A%5B%22PL+115-245%22%5D%7D&r=1>*

## **Policy Recommendations: Supporting Background**

### **Recommendation 1: Inform Kinship Caregivers of Benefits and Supports**

Reforming child welfare agencies practices will take many years to accomplish. Even if achieved, there will still be need for most children to remain in private kinship families. While diversion practices may decline, kinship families will continue to be the State's largest resource for children. The main supports will be the OCFS administered kinship services programs. Given that most kinship families have contact with local departments of social services either through applications for benefits or through engagement with child welfare staff, local departments should ensure that kinship families have full access to kinship supports by connecting them to OCFS kinship services.

In the Kinship Navigator federal demonstration project, the most successful lesson was the collaboration with local departments of social services which led to a 600% increase in referrals to the Navigator. With the current upsurge in kinship families caused by opioid crisis, it is imperative that families receive specialized kinship services. Given the barriers to outreach (cost, rural isolation, reluctance of caregivers, etc.), implementing a requirement for referrals is a no cost solution which will cause many more kinship families to be connected to kinship services.

Social Services Law section 392 was enacted to require local departments to make available information about public benefits and kinship services. See Office of Temporary and Disability Assistance informational letter OTDA 12-ADM-01 (Requirement to Make Information Available to Non-Parent Caregivers Relating to Available Services and Assistance Programs). The statute reads:

§ 392. Services for relative caregivers. Notwithstanding any other provision of law to the contrary, local social services districts shall make available through the district's website or by other means information for relatives caring for children outside of the foster care system. Such information shall include but not necessarily be limited to:

1. information relating to child only grants, including but not limited to, how to apply for child only grants; and
2. information on department of family assistance or local department of social services funded resources for relative caregivers, including those that provide supportive services for relative caregivers.

Implementation is inconsistent and often does not include connecting caregivers to kinship services. Requiring local departments to make referrals to kinship services is a necessary step to ensure that no caregiver falls "between the cracks." We no longer want to hear, "CPS gave me my grandchild eight years ago, and this is the first time I've found out there's help for me."

Additionally, local district child welfare services contact kinship caregivers (See Diversion discussions). Child welfare workers are required by law to inform about foster care and other options for care (FCA 1017). A constant complaint from kinship services providers is that caregivers are uninformed or misinformed about their options. Amending Section 392 to require child welfare workers to inform about kinship programs will ensure caregivers are fully informed of their options.

In 2018, the *Yarde* case exemplified the failure to inform about public benefits. A December 2018 joint OTDA/OCFS ADM (18-ADM-23) highlights the continued inability to connect kinship families to kinship services. The ADM's accompanying brochure informs caregivers about "resources" and "benefits" but fails to mention OCFS's own kinship programs (Kinship Navigator and local kinship services). This omission further exemplifies the need for referrals to be made by the state and county agencies to connect kin to services.

### **Recommendation 2: Declare September as Kinship Care Month**

Since 2014, both the Assembly and Senate have passed resolutions that declared September as Kinship Care Month. Governor Cuomo also issued declarations each of the last four years. Since New York issued this resolution in 2014, twelve other states and multiple municipalities throughout the country have issued declarations. On September 30th, 2015, the U.S. Senate passed a resolution declaring September as Kinship Care Month, and did so once again this past September. In other states and at the federal level, New York's resolution is being used as a model.

Kinship Care Month is both a celebration and an advocacy strategy. It is a well-deserved opportunity to hold events that acknowledge the tremendous contributions of kinship families and to provide outreach to the kinship community. It is also an opportunity to educate policy makers.

Action by state legislatures and state governors is a simple measure that costs no money nor requires complicated legislation. Supporting proclamations in honor of kinship families opens the door for the dialogue that must begin. A dialogue that begins with the premise that children raised in kinship care must be afforded the supports and services they require to live safe and fulfilling lives. A proclamation is a way for NYS legislators and the Governor to say they are listening and that the citizenry of their state appreciates and honors the commitment and sacrifices of kinship families. A simple voice vote in the legislatures can yield a proclamation or the stroke of a pen can create a gubernatorial executive proclamation. Currently, voice votes are scheduled in both NYS legislative chambers for February 5, 2019.

## Description of Kinship Population and Services

### What is Kinship Care?

Kinship care refers to non-parents (grandparents, other relatives, and close family friends) who care for children when parents are unable or unwilling to care for their children. In New York State, most of these households provide care privately, and do not receive foster care supports.

### How Prevalent is Kinship Care?

Nationally, as mentioned in The New York Times article “Children of the Heroin Crisis Find Refuge in Grandparents’ Arms”, 2.6 million grandparents are caring for children (May 21, 2016).<sup>1</sup> According to the same American Community Survey data cited in that article, in New York State, there are more than 130,000 grandparent “kinship” families. Together with aunts, uncles and other family members, estimates are that more than 195,000 children are living in kinship families in New York State.

### Commonality of Causes for Foster Care and Private Kinship Care

Children live with kin for similar reasons as to why they might enter foster care with non-relatives, namely parental abuse/neglect, substance abuse, incarceration, and other safety concerns. See the discussion on Diversion below, for data on child protection records and low kinship foster care utilization outside New York City.

Children in these homes experience similar special needs as children in foster care, such as emotional and behavioral disorders, educational disabilities, trauma, and loss. Caregivers tend to be single, older (average age is 56 years old), and are more likely to be disabled and on a fixed income (36% of caregivers in the Research Foundation study had an income of less than \$20k).<sup>2</sup>

### What Services are Available for Kinship Care Families?

New York State funds a statewide Kinship Navigator (information, referral, advocacy, and education services) and 22 localized kinship service providers (case management and support groups) administered by the Office of Children and Family Services. Like past years, the executive proposed FY 2019-20 Aid to Localities provides \$338,750 for OCFS local kinship programs and \$220,500 for the Kinship Navigator. Last year, the Legislature added \$1.9 million for local programs and \$100,000 for the Kinship Navigator, totaling \$2,559,250 dollars for kinship services in NYS.

---

<sup>1</sup> See also, “Young Victims of the Opioid Epidemic” (NY Times editorial, Jan. 16, 2017).

<sup>2</sup> In a 2013-15 survey of kinship children and caregivers conducted by the Center for Human Services Research Foundation in 5 demonstration counties in upstate NYS, as part of the NYS Kinship Navigator Children’s Bureau demonstration project (final report forthcoming).

## The Opioid Crisis and its Impact on Kinship Care

### **Generations United Report: Raising the Children of the Opioid Epidemic:**

This report makes recommendations for public policy changes that would help support kinship families as they take on the role of caregivers of children affected by the opioid crisis, including funding Kinship Navigators, increasing access to financial assistance (TANF), and engaging Aging services to support kinship families who are elderly. Important facts to note from this report:

- Parental substance use accounted for one third of all foster care placements (2014)
- Opioid epidemic is responsible for increase in foster care placements, nationwide
- Kinship families who take on children, keeping them out of foster care, save the country \$4 billion dollars every year<sup>3</sup>
- Children thrive when placed with kinship caregivers, in comparison to being placed in foster care with strangers

<http://gu.org/OURWORK/Grandfamilies/TheStateofGrandfamiliesinAmerica/TheStateofGrandfamiliesinAmerica2016.aspx>

### **The New York Times: Children of the Heroin Crisis Find Refuge in Grandparents' Arms:**

This article, published May 21, 2016, gives firsthand accounts of grandparents throughout the country stepping in to care for their grandchildren in the face of great challenges. It follows stories from eight caregivers and how they deal with thwarted retirement plans, reshuffling family roles, and fears for the future. Some important facts from this article are:

- More than 2.6 million grandparents were responsible for their grandchildren nationwide in 2014, up 8 percent from 2000
- Heroin deaths have soared among white families in suburban and rural areas, while remaining level among blacks and Hispanics<sup>4</sup>

<https://www.nytimes.com/interactive/2016/05/05/us/grandparents-heroin-impact-kids.html>

The rise in addiction has caused an increase in child welfare interventions. Resulting in more removals and a greater need for non-parent placements. Without certified foster “beds”, more children are being placed with kin.

---

<sup>3</sup> According to a 2017 Rand Corporation research report, savings to child welfare exceeds \$10.5 billion.  
<http://upflow.co/1/AVII/research-and-resources/rand-predicts-greater-investment-prevention-kinship-care-make-child-welfare-better-save-money/29371>  
[https://www.rand.org/pubs/research\\_reports/RR1775-1.html](https://www.rand.org/pubs/research_reports/RR1775-1.html)

## **Diversion from Foster Care**

Diversion refers to local child welfare department practices that “divert” children into kinship care rather than foster care. While there is a federal and state mandate that relatives, including all grandparents, be notified of removal and informed of their “options”, including foster care, local practices can or cannot facilitate pathways to foster care. In years past, we have alerted this Joint Legislative Committee to the issues that arise from diversion practices, namely that caregivers who are caring for children who were diverted from foster care do not get connected to support services that they often desperately need.

While many caregivers intervene on their own without the help of a child welfare department, many are engaged by child welfare agencies to become placement resources, but in many departments few become foster parents. Below is a chart of OCFS Placement Trends from 2016 and 2017, showing the use of direct custody as a continued placement practice.

In the summer of 2018, OCFS prompted the counties and voluntary agencies to identify their “Kinship Policy” in an effort to get counties to begin to utilize more kin as foster parent resources. We applaud this action from OCFS, and have seen slight increases in the number of children being supported in foster care with kinship caregivers. Other advocacy groups have partnered to encourage counties to identify and utilize kin as foster parents as well, with progress being seen in the counties that have engaged with these best practices. The Governor also chose to set aside funding to help transition more counties toward this practice as well, which we applaud.

Despite these positive changes, the fact remains that child welfare departments will still place children with kinship caregivers through the use of safety plans, direct custody, or other means that keep them out of foster care. Our desire is to ensure that when a family does not get into foster care, they are connected to the benefits and services that are available to help them maintain permanency and stability for the children in their care.

Some of the proposed policy changes addressed in this document would ensure that children are not falling through the cracks. Referrals to services that can help connect families to benefits is an important factor in keeping families together, and we encourage the legislature to enact reforms that do not forget about the children who never make it into foster care.

**OCFS Data on Relative Placements:**

<b>2016</b>	<b># of Children Newly Admitted into Foster Care</b>	<b># of Children Placed into Approved and Certified Kinship Foster Care</b>	<b># Kin Placement (Direct Custody)</b>
<b>ROS Totals:</b>	4625	492 (10.6%)	2038
<b>NYC Totals:</b>	3750	1121 (29.8%)	140
<b>State Total:</b>	8375	1613 (19.2%)	2178

<b>2017</b>	<b># of Children Newly Admitted into Foster Care</b>	<b># of Children Placed into Approved and Certified Kinship Foster Care</b>	<b># Kin Placement (Direct Custody)</b>
<b>ROS Totals:</b>	4621	548 (11.8%)	1742
<b>NYC Totals:</b>	4314	1432 (33.1%)	214
<b>State Total:</b>	8935	1980 (22.1%)	1956

## Appendix A: Flow Chart Describing Kinship Placements

### Kinship Care: Custodial Arrangements

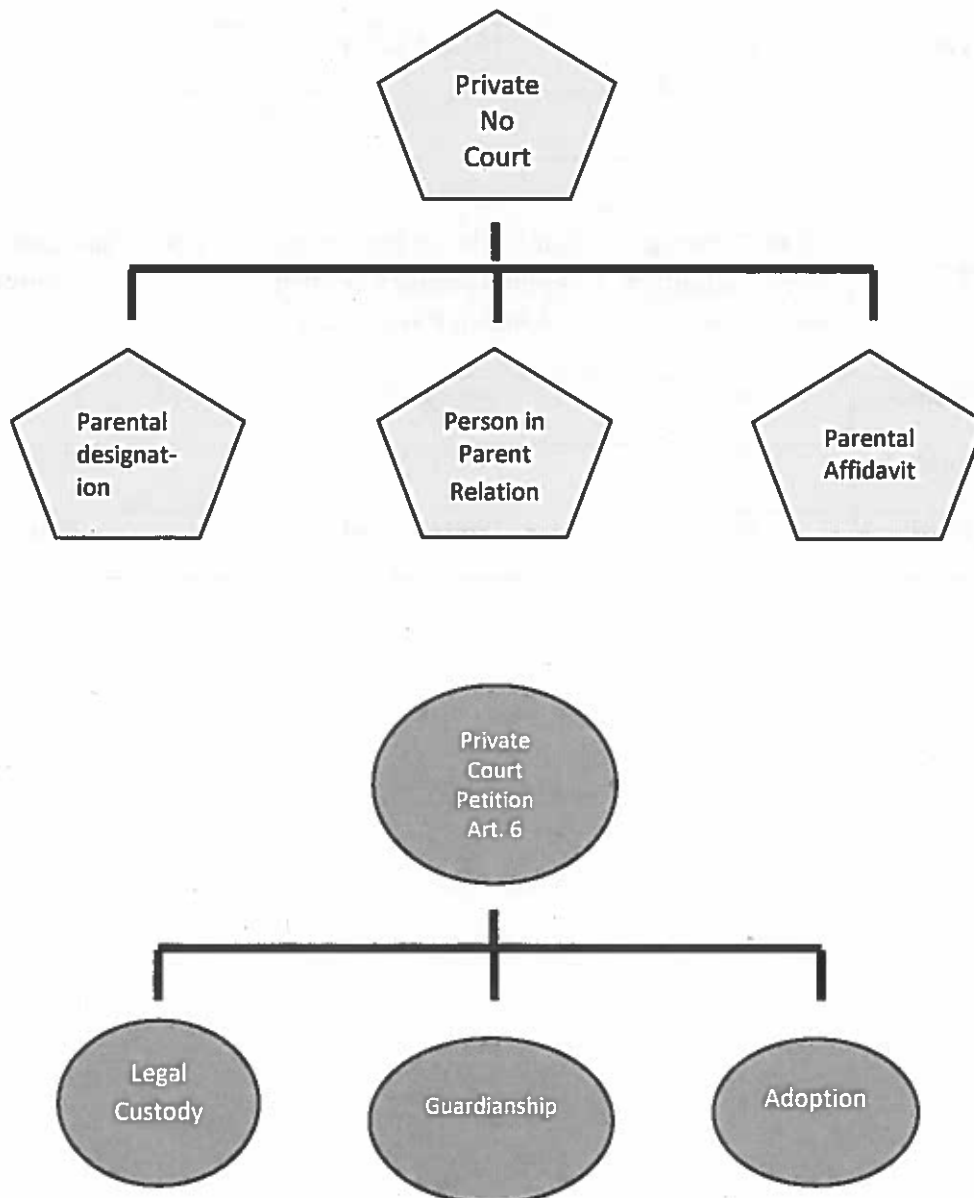
#### How Kin Care for Children

**KEY:**

Yellow Pentagons and      ovals are private actions (no child welfare);      Rectangles are public child welfare actions

#### Private - No Child Welfare Engagement

There are an estimated 189,000 children in private custodial arrangements





## Private Arrangements - No Child Welfare Engagement

### Private – No Court:

**Parental designation:**<sup>5</sup> refers to statutes that permit a parent to “designate” some of their authority.

**Person in parental relationship:**<sup>6</sup> refers to the term used in public health and education statutes that grants limited authority to certain caregivers.

**Parental affidavit:**<sup>7</sup> refers to educational case law that permits affidavits as proof of a non-parent assuming care and control for purposes of school enrollment.

### Private – Court Petition:

**Private custodial proceedings:** usually Article Six of the Family Court Act. Most kinship families will become legal custodians. Legal guardianship can also be petitioned in the Surrogate’s Court. Custody and guardianships have different procedural requirements. Regarding authority, guardianship powers are clearly defined in numerous statutes. Legal custody in only a few.

**Legal Custody:**<sup>8</sup> most kinship caregivers become legal custodians in family court. Has numerous types (sole, joint, temporary, permanent). Legal custody does not include the authority to make medical decisions for a child.

**Guardianship:**<sup>9</sup> has numerous types (guardianship of the person, temporary, permanent, KinGAP, etc.), but all provide the same authority, which includes medical.

**Adoption:**<sup>10</sup> In some instances, a kinship caregiver may petition to adopt. Most often, adoptions occur after a foster care placement.

<sup>5</sup> GOL §§1551-1555, PHL § 2504.

<sup>6</sup> PHL § 2164, EdI § 3212.

<sup>7</sup> 8 NYCRR 100.2(y)

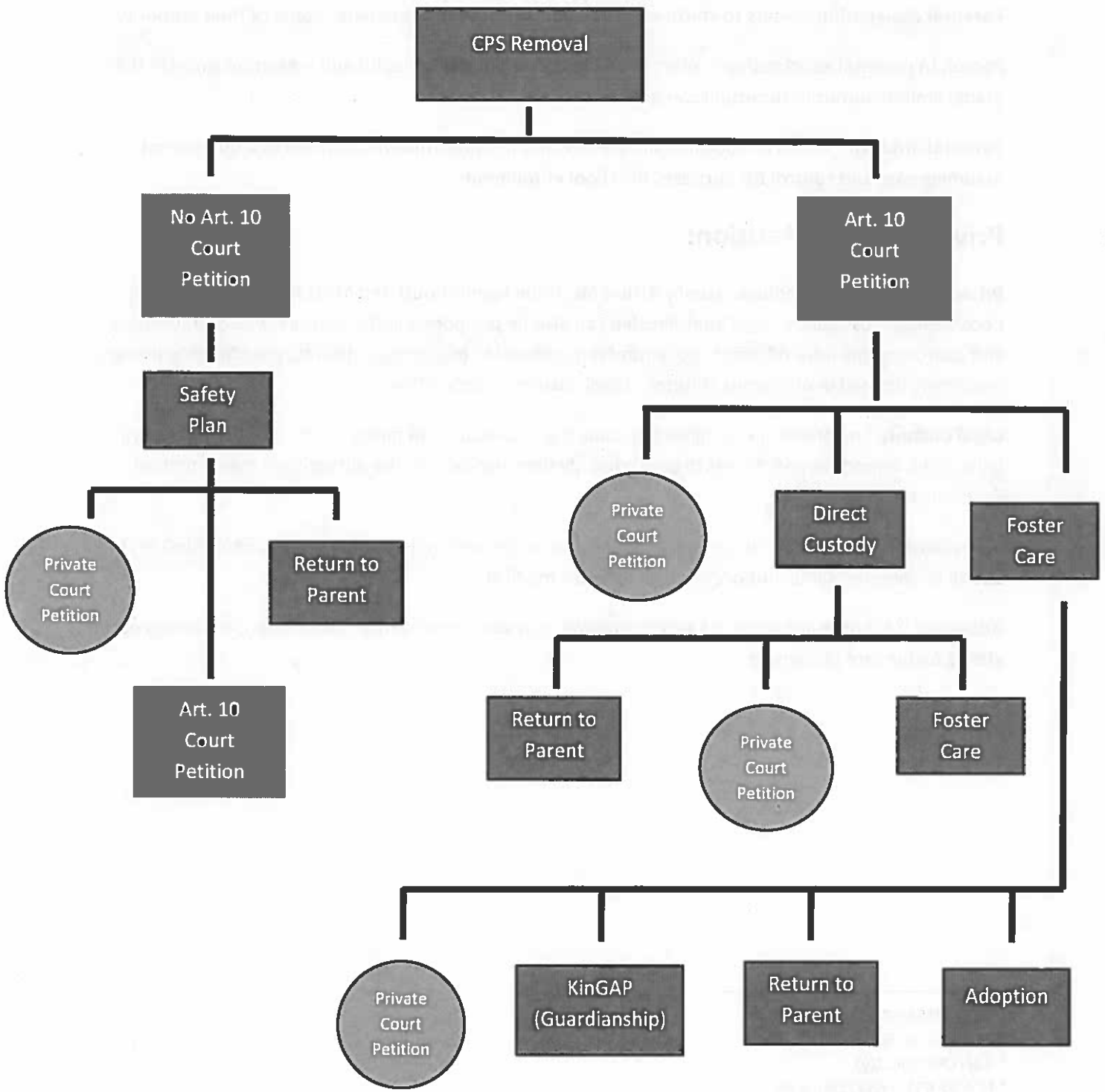
<sup>8</sup> FCA §§ 651 – 657; DRL § 74.

<sup>9</sup> S.C.P.A. §§ 1700 ff.; DRL § 74.

<sup>10</sup> DRI §§ 115-116.

# Public Arrangements - Child Welfare Engagement

Approximately 3,700 children are currently in Kinship Foster Care, 2000 children are placed each year in Direct Custody, 400 exit foster care to KinGAP per year



## Public Arrangements - Child Welfare Engagement

**Left side of the diagram:** when a child welfare worker indicates to a family that the child is unsafe with their parents, but instead of initiating a removal in court, initiates a safety plan. As seen in the first diagram of private custodial arrangements, on occasion, children are left with kinship caregivers in a safety plan and no follow up is done by child welfare. The normal outcomes of a safety plan include a private custody petition, return to parent, or a subsequent CPS Article Ten removal proceeding.

**Safety Plan:**<sup>11</sup> refers to a placement facilitated by child welfare, where there is no court proceeding. Occasionally, children are left with relatives in a safety plan and child welfare stops being involved.

**Right side of the diagram:** Removal starts an Article Ten court proceeding that leads to:

**Private Court Petition:**<sup>12</sup> a potential kinship caregiver steps in to petition the court for custody of a child, asking the child welfare department to relinquish custody in a private Article Six court proceeding.

**Direct Custody:**<sup>13</sup> a child welfare department may place a child temporarily in the custody of a kinship caregiver, with continued involvement of the child welfare system and a permanency goal of return to parent. Direct custody may lead to a private court petition from a caregiver. It is also possible, though somewhat rare, that a caregiver may move from being in a direct custody arrangement to becoming a fully approved foster parent for their child.

**Foster Care:**<sup>14</sup> child welfare removes a child and may use an “emergency foster care certification” for a kinship caregiver in order to place a child immediately with a kinship caregiver while the caregiver gets certified or approved as a foster parent.

**Foster Care:** once a child is with a kinship caregiver who is their foster parent, the typical outcomes include return to parent, adoption, or KinGAP. Very rarely a caregiver may choose to exit foster care via a private court petition, but will lose all subsidies and supports they would be eligible in other permanency options.

**Adoption:**<sup>15</sup> proceedings would necessitate a termination of the child’s parent’s rights before moving toward permanency in this way. In many circumstances, adoption from foster care comes with an adoption subsidy.

**KinGAP:**<sup>16</sup> outcome only available to kinship foster parents, and provides a subsidy for a caregiver who, with the help of the child welfare department, petitions the court for guardianship in order to exit foster care. There is no termination of parental rights.

---

<sup>11</sup>18 NYCRR 430.10(b)(2).

<sup>12</sup> FCA §§ 1055-b, 1089-a (conversions to Article Six private court petitions).

<sup>13</sup> FCA Art. 10, FCA § 1017.

<sup>14</sup> SSL §§ 383-c et al.

<sup>15</sup> DRL §§ 112-114; FCA §§ 611-634.

<sup>16</sup> SSL §§ 458-a ff.

## Appendix B: Governor's Proposed Budget

### Gov. Budget 2020 - AID TO LOCALITIES – Kinship Services

#### Page 282

For services and expenses of kinship care programs. Such funds are available pursuant to a plan prepared by the office of children and family services and approved by the director of the budget to continue or expand existing programs with existing contractors that are satisfactorily performing as determined by the office of children and family services, to award new contracts to continue programs where the existing contractors are not satisfactorily performing as determined by the office of children and family services and/or award new contracts through a competitive process. Such contracts shall provide for submission of information regarding outcome based measures that demonstrate quality of services provided and program effectiveness to the office in a form and manner and at such times as required by the office

(14077) ..... \$338,750

#### Page 283

For services and expenses of the Catholic Family Center in Rochester to establish, operate, and administrate a statewide kinship information, education, program services and referral network

.....\$220,500

#### Page 269-270

For services and expenditures to be made in accordance with 42 U.S.C. 673(a)(8)(D). Notwithstanding any inconsistent provision of law, the amount herein appropriated shall be used to provide post-adoption services, post-guardianship services, and 39 services to support and sustain positive permanent outcomes for children who otherwise might enter into foster care in accordance with federal requirements. Notwithstanding any other provision of law to the contrary, in accordance with federal requirements, a portion of the funding herein shall be available to social services districts for services to support and recruit foster families including kinship caregivers, in accordance with a plan developed by the office of children and family services. Notwithstanding any inconsistent provision of law, the amount herein appropriated may be increased by transfer or by interchange with any other appropriation or with any other item or items within the amounts appropriated within the office of children and family services if needed to meet federal requirements and with the approval of the director of the budget who shall file such approval with the department of audit and control and copies thereof with the chair of the senate finance committee and the chair of the assembly ways and means committee (13959)

..... \$10,603,000

\*\*\*